

VIRGINIA ACTS OF ASSEMBLY -- 2018 SESSION

CHAPTER 427

An Act to amend and reenact § 62.1-255 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 62.1-259.1, relating to ground water management; subdivisions; technical evaluation.

[H 358]

Approved March 23, 2018

Be it enacted by the General Assembly of Virginia:

1. That § 62.1-255 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 62.1-259.1 as follows:

§ 62.1-255. Definitions.

As used in this chapter, unless the context requires otherwise:

"Beneficial use" includes, but is not limited to, domestic (including public water supply), agricultural, commercial, and industrial uses.

"Board" means the State Water Control Board.

"Department" means the Department of Environmental Quality.

"Ground water" means any water, except capillary moisture, beneath the land surface in the zone of saturation or beneath the bed of any stream, lake, reservoir or other body of surface water wholly or partially within the boundaries of this Commonwealth, whatever the subsurface geologic structure in which such water stands, flows, percolates or otherwise occurs.

"Ground water withdrawal permit" means a certificate issued by the Board permitting the withdrawal of a specified quantity of ground water in a ground water management area.

"Person" means any and all persons, including individuals, firms, partnerships, associations, public or private institutions, municipalities or political subdivisions, governmental agencies, or private or public corporations organized under the laws of this Commonwealth or any other state or country.

"Surficial aquifer" means the upper surface of a zone of saturation, where the body of ground water is not confined by an overlying impermeable zone.

§ 62.1-259.1. Certain withdrawals; technical evaluation required.

A. The developer of a subdivision, as defined in § 15.2-2201, located in a designated ground water management area shall apply for a technical evaluation from the Department of Environmental Quality prior to final subdivision plat approval if there will be 30 or more lots within the subdivision served by private wells, as defined in § 32.1-176.3. The application for a technical evaluation shall be on a form established by the Department and shall include a geophysical log from a geophysical borehole located within the subdivision. Such borehole may subsequently be utilized as a ground water supply for a dwelling unit or for other appropriate purpose within the subdivision. Within 60 days of receiving a complete application for a technical evaluation, the Department shall perform a technical evaluation and provide to the developer a recommendation sufficient to serve the water needs of each dwelling unit in the subdivision that specifies the aquifer or aquifers that will minimize unmitigated impacts to ground water resources and any offsite impacts to existing ground water users. The recommendation to the developer shall be nonbinding; however, any such developer who constructs one or more private wells in the subdivision in an aquifer inconsistent with the Department's recommendation shall prepare and submit a mitigation plan to the Department, consistent with requirements for mitigation plans established by the Board, and record a mitigation plan approved by the Department with the subdivision plat prior to constructing any private wells within the subdivision. The Department is authorized to charge the developer a fee not to exceed \$5,000 to perform the technical evaluation. This section shall not apply to the developer of a subdivision who constructs all of the private wells within the subdivision in the surficial aquifer.

2. That the technical evaluation requirement of this act applies to any such subdivision for which the developer obtains plat approval on or after July 1, 2018.