



**Franklin City Council Agenda
September 9, 2024
Council Chambers
207 West Second Avenue
Franklin, Virginia 23851**

**7:00 P.M.
Regular Meeting**

CALL TO ORDER. MAYOR ROBERT L. CUTCHINS
PLEASE TURN OFF CELL PHONES. MAYOR ROBERT L. CUTCHINS
PLEDGE OF ALLEGIANCE
CITIZEN’S TIME
AMENDMENTS TO AGENDA

1. CONSENT AGENDA:

- A. Approval of May 13, 2024 work session minutes
- B. Approval of May 23, 2024 work session minutes
- C. Approval of June 3, 2024 work session minutes
- D. Approval of August 26, 2024 regular council meeting minutes

2. PROCLAMATIONS:

- A. Proclamation #2024-18 – Hunger Action Month Proclamation
- B. Proclamation #2024-19 – Constitution Week Proclamation

3. ORDINANCES & RESOLUTIONS:

- A. Ordinance #2024-13 – Ordinance to Replace Chapters 9 and 25.8 and enact a Consolidated Erosion and Sedimentation Program in the City of Franklin, Virginia
- B. Ordinance #2024-14 – Ordinance to Amend Chapter 29-50
- C. Ordinance #2024-15 – Ordinance to Amend Sections 6-23 and 6-33

4. OLD/ NEW BUSINESS

- A. Council’s Comments
- B. City Manager’s Report

5. COUNCIL/STAFF REPORTS ON BOARDS/COMMISSIONS

6. CLOSED SESSION

I move that the City of Franklin, Virginia City Council adjourn into a closed meeting pursuant to Virginia Code Section 2.2-3711-A-1, 8 discussion of appointments to boards and commissions: Southview Cemetery Advisory Committee, Beautification Commission, and City Manager.

ADJOURNMENT

City Council Work Session Meeting Minutes May 13, 2024

Call to order

The Franklin City Council held a Special Called Meeting on May 13, 2024 at 6:00 P.M. in the City Council Chambers located at 207 West Second Avenue, Franklin, Virginia 23851.

Council Members in Attendance: Robert “Bobby” Cutchins, Mayor; Wynndolyn Copeland, Vice-Mayor; Councilman Linwood Johnson (6:03 pm); Councilman Mark Kitchen; Councilwoman Jessica Banks; Councilman Ray Smith; Councilman Gregory McLemore

Council Members not in Attendance:

Staff in Attendance: Darlene Burcham, Interim City Manager; Haleigh Pinto, Executive Assistant recording minutes.

Budget, Garbage & Refuse, Vegetation and Tall Grass

Darlene Burcham, Interim City Manager discussed with Council an update on the City budget. In the beginning staff believed the assessment would come in about 20 percent, after completion, with was north of 25 percent and staff balanced the budget at 25 percent and put that additional revenue into a contingency line item. The final number from the assessors is 27.7 percent, which represents about \$181,000 of additional revenue. Letters will go out to the residents later this week with the information. Additionally, in regards to expenditures, there are some adjustment needs. In the past, there have been some limitations to what the City Manager may approve within an individual fund, if we can be allowed to get transfers completed and darlensubsequent of notification will be sent to Council as there are some time sensitive transfers.

Mayor Bobby Cutchins asked Council if they recall the set amount the City Manager may transfer. Councilman Ray Smith stated \$50,000.00. Mayor Cutchins stated that a vote can't take place at this moment, Council can discuss later. Councilman Ray Smith asked for a member list for the Board of Equalization. Interim City Manager stated she will provide that once she receives.

Darlene Burcham, Interim City Manager, discussed the changes to the Garbage and Refuse ordinance in Chad Edwards, Director of Public Works absence.

13.1 Definitions.

Redefine - **Collection Container.**

The current definition states: A metal, plastic, or other approved unit of not more than 90 gallons' capacity.

Our proposed definition states: A storage and collection container required for the storage and collection of solid waste and yard waste issued by the city and used in the automated collection program.

Remove - **Curbside Recycling Program**

The city eliminated the curbside recycling program on May 21, 2021. This definition no longer applies.

Remove - **Recyclable Materials**

With the elimination of the curbside recycling program this definition no longer applies.

13.3 Residential Service.

Remove - (h) Homeowners or tenants served by the curbside recycling program shall dispose of all items covered by the recycling program in approved recycling bins which shall be placed at the designated collection site for collection on the designated collection day.

With the elimination of the curbside recycling program this section no longer applies.

13.8 Placement of containers at collection sites

Add and remove the following language:

It shall be the responsibility of the owner or user of a refuse container, the contents of which are to be collected by City forces, to place the container at the collection site so that there is no danger of the container being overturned and so that there is sufficient clearance to accommodate City collection equipment. Collection containers, ~~disposable containers, yard waste, bulky waste, and recycling bins~~ should be placed at the collection site **no later than** ~~by 7:00 a.m. of the designated collection day~~ **on the day of collection and not earlier than 5:00 p.m. on the day prior to the day of collection. All containers shall be removed from the street, curbside, or sidewalk no later than 11:00 p.m. the day of collection and placed out of the view of the public.**

Councilman Gregory McLemore stated for clarification, it was previously voted by Council that the blue recyclable containers may be used for trash.

Darlene Burcham called on Scott Miller, Building Official to discuss the vegetation and tall grass. Scott Miller stated the challenge for Community Development is the 12 inch grass height. By the time of inspection, serve notice, and wait for the grace period, the grass has grown to about 14-15 inches tall. Community Development would like to lower the height from 12 inches to 8 or 10 inches. The code currently calls for grass, weeds, and growth, it does not address bushes or trees. Community Development would like to add enforcement for the cutting or removal of bushes and trees that impede the 20ft triangle, obstruct the view of the posted address, which is a safety issues, detrimental to the structure, and encourages the harborage of rodents.

Council was supportive of these changes.

No further action at this time.

Adjournment

Mayor Bobby Cutchins adjourned the May 13, 2024 Work Session.

The Work Session was adjourned at 6:58 P.M.

Mayor

Clerk to City Council

City Council Special Called Meeting Minutes May 23, 2024

Call to order

The Franklin City Council held a Special Called Meeting on May 23, 2024 at 7:30 P.M. in the City Council Chambers located at 207 West Second Avenue, Franklin, Virginia 23851.

Council Members in Attendance: Robert “Bobby” Cutchins, Mayor; Wynndolyn Copeland, Vice-Mayor; Councilman Linwood Johnson (7:35 pm); Councilman Mark Kitchen; Councilwoman Jessica Banks (7:32 pm); Councilman Ray Smith; Councilman Gregory McLemore

Council Members not in Attendance:

Staff in Attendance: Darlene Burcham, Interim City Manager; Haleigh Pinto, Executive Assistant recording minutes.

Armory Drive Rezoning Public Hearing

Darlene Burcham, Interim City Manager called Aaron Barnes, Director of Community Development to come forward to discuss the Armory Drive rezoning.

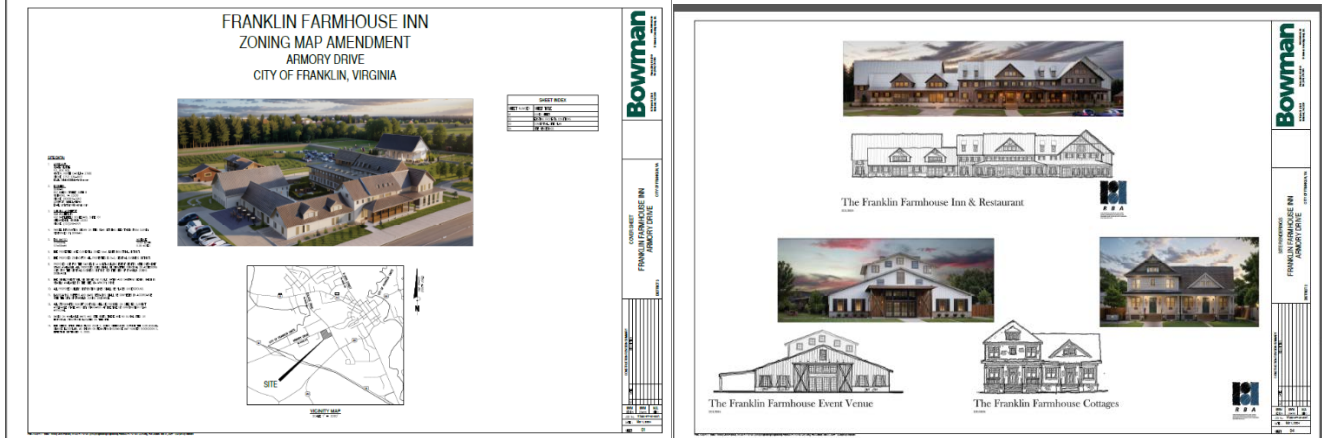
Aaron Barnes stated the applicant has requested the City of Franklin to rezone property from light Industrial (M-1) to Conditional-Central Business District (B-2) to allow construction and operation of Franklin Farmhouse Inn with guest rooms, a restaurant, a banquet room, 32 extended stay cottages, and an event center, and two commercial outparcels. The property is located on Armory Drive, approximately 300’ from its intersection with South College Drive. A special called meeting of the Planning Commission held on May 16, 2024 on the proposed rezoning recommended approval on a 4-0 vote.

According to the conditions, the maximum number of extended stay cottages shall be 30 with 1-2 bedrooms each. For the purpose of this application, the definition of extended stay shall mean cottages occupied by the same guests for no more than six (6) months, with the option for a three (3) month extension. No guest shall remain in the cottages for more than a total of nine (9) months out of a year.

Mayor Bobby Cutchins asked if there were any questions by Council at this time.

Blake Blythe, applicant, wanted to thank Council for having the special called meeting. What is presented to Council is a vision for the Saint Regis property that consists of 19 acres of land, the second most visible and valuable property the City has. Mr. Karl Heck with Franklin Southampton Economic Development has been very helpful during this process.

Ms. Geri Bradshaw, applicant, explained the layout of the facility to Council.



Ms. Bradshaw explained the conversation with Camp Community College to allow the work forces students to work in the restaurant portion of the farmhouse.

Mayor Bobby Cutchins asked the size/square footage of the cottages. Ms. Bradshaw stated they are about 750. Vice-Mayor Wynndolyn Copeland asked what the timeframe from approval is, Ms. Bradshaw stated that it would be about 2.5 years to complete. Councilman Mark Kitchen asked if the restaurant will be open to the public or just to the occupants, Ms. Bradshaw stated that it will be open to the public. Councilman Gregory McLemore stated that he is happy this is coming to the City of Franklin and utilizing the Camp Community College students to help them grow.

Mayor Bobby Cutchins opened the Public Hearing regarding the rezoning of the property on Armory Drive and the intersection of College Drive belonging to applicant Blake Blythe.

Mayor Bobby Cutchins called three times, there were no commenters. Mayor Bobby Cutchins closed the Public Hearing and asked for desired action from Council.

A. Ordinance 2024-04 (Read by Mayor Bobby Cutchins)

Councilman Gregory McLemore made a motion to adopt Ordinance 2024-04 with a second from Vice-Mayor Wynndolyn Copeland.

The motion carried the vote 7-0

The vote was as follows:

Councilman Linwood Johnson	Aye
Councilman Mark Kitchen	Aye
Councilwoman Jessica Banks	Aye
Vice-Mayor Wynndolyn Copeland	Aye
Mayor Robert Cutchins	Aye
Councilman Ray Smith	Aye
Councilman Gregory McLemore	Aye

Mayor

Clerk to City Council

City Council Work Session Meeting Minutes June 3, 2024

Call to order

The Franklin City Council held a Special Called Meeting on June 3, 2024 at 6:00 P.M. in the City Council Chambers located at 207 West Second Avenue, Franklin, Virginia 23851.

Council Members in Attendance: Robert “Bobby” Cutchins, Mayor; Wynndolyn Copeland, Vice-Mayor; Councilman Linwood Johnson; Councilman Mark Kitchen; Councilwoman Jessica Banks; Councilman Ray Smith; Councilman Gregory McLemore

Council Members not in Attendance:

Staff in Attendance: Darlene Burcham, Interim City Manager; Haleigh Pinto, Executive Assistant recording minutes; Sammara Bailey, Director of Parks and Recreation.

Armory Project

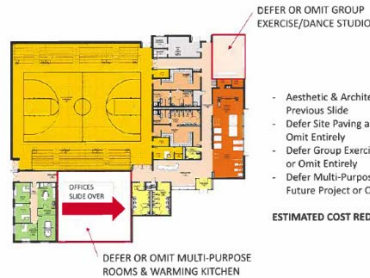
Darlene Burcham, Interim City Manager called Sammara Bailey, Director of Parks and Recreation to present updates to the Armory project. Representatives from HBA, Ally and Michael, will give Council updates. The programming and the schematic design piece have been completed, we are currently in the construction documents, this hopes to go to bid in August. Currently the Armory building has two sheds, they will be demolished. The currently utilities will be utilized during the reconstruction. There are five (5) development options:



- Aesthetic & Architectural Changes:**
- Change 25% of Metal Panel Wall Panel to Brick
 - Remove High Windows in Gymnasium
 - Reduce Square Footage of Curtainwall Windows at Main Entrance
 - Eliminate Parapet Walls and Internal Roof Drains, Use Gutters and Downspouts
 - Specify Lower Cost Wood Gymnasium Flooring
 - Change to Floor Mounted Toilet Partitions & Fixtures

ESTIMATED COST REDUCTIONS - \$430,000

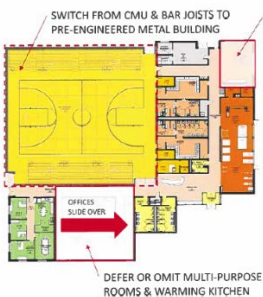
OPTION A - \$14M



- Aesthetic & Architectural Cost Reductions from Previous Slide
- Defer Site Paving and Landscaping to Future Project or Omit Entirely
- Defer Group Exercise/ Dance Studio to Future Project or Omit Entirely
- Defer Multi-Purpose Rooms & Warming Kitchen to Future Project or Omit Entirely

ESTIMATED COST REDUCTIONS - \$2,995,000

OPTION B - \$11.5M



- Aesthetic & Architectural Cost Reductions from Prior Slide
- Switch to Pre-Engineered Metal Building for Gymnasium Only
- Defer Site Paving and Landscaping to Future Project or Omit Entirely
- Defer Group Exercise/ Dance Studio to Future Project or Omit Entirely
- Defer Multi-Purpose Rooms & Warming Kitchen to Future Project or Omit Entirely

ESTIMATED COST REDUCTIONS - \$3,995,000

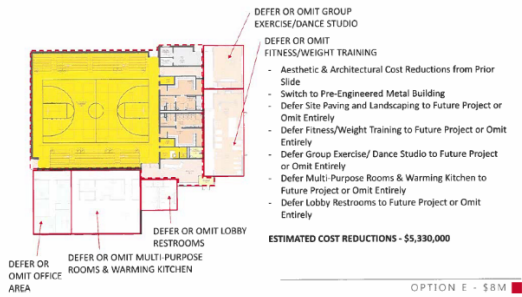
OPTION C - \$10.5M



- Aesthetic & Architectural Cost Reductions from Prior Slide
- Defer Site Paving and Landscaping to Future Project or Omit Entirely
- Defer Fitness/Weight Training to Future Project or Omit Entirely
- Defer Group Exercise/ Dance Studio to Future Project or Omit Entirely
- Defer Multi-Purpose Rooms & Warming Kitchen to Future Project or Omit Entirely
- Defer Lobby Restrooms to Future Project or Omit Entirely

ESTIMATED COST REDUCTIONS - \$4,330,000

OPTION D - \$10M



Franklin Recreation Center Total Project Budget Estimate Procurement Options

1 General Contractor – Package 1 (Bond Funding)		\$ 10,429,340
Package 1 Base Bid	\$ 9,929,340	
Construction Contingencies	\$ 500,000	
2 General Contractor – Package 2		\$ 1,846,457
Building Demolition	\$ 135,655	
Hazardous Materials Abatement	\$ 260,000	
Site Deposition	\$ 286,963	
Selected Site Improvements	\$ 834,800	
Weight Room Flooring	\$ 25,044	
Folding Partitions	\$ 29,114	
Telescopic Bleachers	\$ 197,222	
Gymnasium Equipment	\$ 85,832	
Commercial Kitchen Equipment	\$ 15,653	
Metal Lockers	\$ 40,697	
Toilet Partitions	\$ 35,479	
3 Owner Purchased Materials/ Equipment Installed by General Contractor		\$ 982,697
Roofing Membrane and Insulation Materials	\$ 261,716	
HVAC Equipment	\$ 700,952	
Total Estimated Construction Costs (DS Estimate + HazMat + \$500K Construction Contingency)		\$ 13,358,494
4 Owner Separate Contracts for Systems, Materials & Equipment		\$ 505,000
Fitness Equipment	\$ 150,000	
Furniture	\$ 75,000	
Window Treatments	\$ 10,000	
Residential Appliances	\$ 5,000	
Emergency Generator	\$ 175,000	
IT Systems/Equipment	\$ 30,000	
Security Systems & Equipment	\$ 100,000	
Audio/Visual Systems & Equipment	\$ 20,000	
5 Owner Separate Contracts for Services		\$ 796,000
Survey Services (estimate - Owner please verify)	\$ 25,000	
Hazardous Materials Investigation Services (estimate - Owner please verify)	\$ 15,000	
HAZOP Grant Management / EA Study (Kinley-Horn)	\$ 80,000	
Civil Engineering Services (Kinley-Horn)	\$ 125,000	
Architectural and Engineering Services	\$ 450,000	
Special Inspections Services	\$ 40,000	
Other Services (estimate - Owner please verify)	\$ 20,000	
Total Estimated Soft Costs		\$ 1,292,000
Total Estimated Project Budget		\$ 14,650,494

Note: Blue font indicates in Downey Scott Estimate
 Note: Red font indicates Owner verify
 Note: Italic font indicates "Specimate"

Councilman Linwood Johnson stated that he applied for a grant with Congressman Bobby Scott for the \$2.5 million dollars to go towards the Armory project.

Council discussed the facility and cost. Councilman Ray Smith asked if this would be in competition with the YMCA and will there be fees to utilize the facility. Sammara Bailey explained that there are conversations/meetings to discuss what the fees or memberships will be for the facility. Councilman Ray Smith stated his concern with college basketball not being allowed to use the facility/basketball court. Councilwoman Jessica Banks stated there is a fee to use the community pool and agrees there should be a fee for the facility. Councilman Gregory McLemore stated there needs to be more discussion before approving the design, especially when how to come up with the additional funds needed to build, and agrees with Councilman Smith to allow college games on the basketball court.

Council continued discussion on the Armory Project. Sammara Bailey stated although she thinks it great to incorporate a college or high school size gym, still have to think about our rec ball league, and as a Director that is what she is thinking about first. There are a lot of opportunities for other organizations to utilize the facility. Mayor Bobby Cutchins asked if the design team could give Council another option for the facility.

Darlene Burcham stated that staff will get information to Council in advance of June 24, 2024. If there are any questions, have those to Sammara before the meeting.

Adjournment

Councilman Ray Smith made a motion to adjourn the June 3, 2024 Work Session Meeting with a second from Councilman Mark Kitchen.

The motion carried the vote 7-0

The vote was as follows:

Councilman Linwood Johnson	Aye
Councilman Mark Kitchen	Aye
Councilwoman Jessica Banks	Aye
Vice-Mayor Wynndolyn Copeland	Aye
Mayor Robert Cutchins	Aye
Councilman Ray Smith	Aye
Councilman Gregory McLemore	Aye

Mayor Bobby Cutchins stated the meeting stands adjourned.

The Special Called Meeting was adjourned at 7:08 P.M.

Mayor

Clerk to City Council

Regular City Council Meeting Minutes August 26, 2024

Call to order

The Franklin City Council held its regular City Council meeting on August 26, 2024 at 7:00 p.m. in the City Council Chambers.

Council Members in Attendance: Robert “Bobby” Cutchins, Mayor; Wynndolyn Copeland, Vice-Mayor; Councilman Gregory McLemore; Councilman Mark Kitchen; Councilman Linwood Johnson; Councilwoman Jessica Banks.

Council Members not in Attendance: Councilman Ray Smith

Staff in Attendance: Darlene Burcham, Interim City Manager

Other Staff in Attendance: Robert Porti, Deputy Chief of Police; Lt. Patrick Wilson; A’Risha Jones, Director of Tourism; Matthew Jezierski, Director of IT.

Citizen’s Time

Ms. Audrey Lee of 507 Vaughans Lane, Franklin, Virginia, addressed Council regarding the support of Mr. Clarence Baker bringing a Residential Community Crisis Stabilization to the City of Franklin.

Ms. Purlie Banks of 336 Robinhood Road, Franklin, Virginia, addressed Council in regard to the Electoral Board.

Amendments to Agenda

No amendments at this time.

Consent Agenda

- A. Approval of August 12, 2024 meeting minutes.

Mayor Robert Cutchins asked if there were any corrections or additions for the August 12, 2024 minutes.

Darlene Burcham, Interim City Manager noted that the City Attorney identified a need to correct the minutes in regards to the Special Use Permit. The statement was made that the motion carried which is inaccurate. The motion failed to carry due to the 3-2 vote. Mayor Bobby Cutchins stated the language will be changed.

Councilman Mark Kitchen made a motion to approve the minutes as amended with a second from Councilman Linwood Johnson.

The motion carried the vote 5-1-0

The vote was as follows:

Councilman Linwood Johnson	Aye
Councilman Mark Kitchen	Aye
Councilwoman Jessica Banks	Aye
Vice-Mayor Wynndolyn Copeland	Aye
Mayor Robert Cutchins	Aye
Councilman Ray Smith	Absent
Councilman Gregory McLemore	Abstained

Mayor Robert Cutchins affirmed the motion carried.

Presentations

A. Visitor Center Exhibit

Darlene Burcham, Interim City Manager called A'Risha Jones, Director of Tourism to present the Visitor Center Exhibit update and the new marketing video showcasing the businesses and outdoor attractions for Visit Franklin VA. A'Risha Jones stated the City of Franklin received ARPA funds for various Capital Projects. This funding is being utilized to update the Franklin Visitor Center through the addition of interpretive panels in the right room of the Visitor Center. This will provide educational resources to both the community and visitors regarding the history of Franklin and current attractions Franklin have to offer. The layout has been approved and we have moved on to the next steps of creating a loan/donation contract for individuals willing to donate or loan items representing the City of Franklin and its history. Another portion of the ARPA funds went towards hiring a photographer to highlight local businesses and outdoor attractions, which will also be used for marketing.

The City is partnering with Southampton Economic Development to host the first annual Restaurant Week, which will run from September 17th-22nd. We have Serve, Graceful Baker, Cork Tap Taste, Belmont, and the Hubs Vine participating. There is a contest going on now where residents may enter to win a gift card to use at one of the participating restaurants during Restaurant Week with the grand prize being tickets to the annual Homegrown Harvest Fest.



Public Hearings

A. Ratification of Proposed Real Property Tax Rate

Ms. Burcham stated that Council did have a Public Hearing on May 13, 2024 as it pertains to proposed tax rate that would remain unchanged at \$1.03. Council did adopt the budget on June 3, 2024 with the same provisions. The City Attorneys have advised the City should ratify that decision to increase the rate due to the new assessment.

Mayor Bobby Cutchins opened the Public Hearing Ratifying the Proposed Real Property Tax Rate.

A citizen asked for clarification as to what the Public Hearing is for and if this is to increase or decrease the tax rate. Councilman Gregory McLemore confirmed it is to increase. Mayor Bobby Cutchins explained that the real estate taxes did go up because of real estate value. Darlene Burcham, Interim City Manager stated it's to reaffirm the action of Council at its earlier meeting where the budget was adopted. The assessment percentage at that time was still uncertain with the understanding it would possibly be 25% based upon the independent assessors that actually came in at 27.5%. The tax rate has not changed in the City of Franklin in years.

Mayor Bobby Cutchins called a second time for the Public Hearing.

A resident of Franklin, Virginia, addressed Council with their concern of the increase and the electric bills.

Councilwoman Jessica Banks stated she has received some concerns from her constituents regarding the increase. After further research she determined that had Council incorporated gradual increases throughout the years, the City would not have this big increase, which is unfortunate.

Darlene Burcham, Interim City Manager stated that in the State of Virginia, legally there has to be a balanced budget and the City of Franklin is within those guidelines.

Mayor Bobby Cutchins called a third time for the Public Hearing. No further residents spoke, Mayor Bobby Cutchins closed the Public Hearing and opened for Council discussion.

Councilman Gregory McLemore stated this is why there needs to be town hall meetings for resident questions to be answered. The City is lacking many things and he doesn't agree with affirming the tax rate.

a. Resolution #2024-24 Resolution to Ratify the FY24-25 Real Estate Tax Rate



RESOLUTION TO RATIFY THE FY24-25 REAL ESTATE TAX RATE
RESOLUTION #2024-24

WHEREAS, the City Council of the City of Franklin (the "City Council") held a public hearing on May 13, 2024, on the proposed FY24-25 budget, and

WHEREAS, pursuant to Virginia Code § 58.1-3321(B) and (C), the City Council held a separate public hearing on May 13, 2024, to consider increasing the rate of levy for real property taxes to \$1.03 per \$100 of assessed value, which represented an increase over the reduced rate of levy which would have resulted from increased biennial property assessments in the City of Franklin, pursuant to Virginia Code § 58.1-3321(A), and

WHEREAS, on June 3, 2024, the City Council adopted its FY24-25 budget, including the increased rate of levy for real property taxes of \$1.03 per \$100 of assessed value; and

WHEREAS, the City Council wishes to ratify its decision to increase the rate of levy for real property taxes because additional assessment data came to the City Council's attention after the original May 13 public hearing; and

WHEREAS, the City Council properly advertised the ratification of its rate of levy increase in a newspaper of general circulation, and conducted a public hearing thereon, this day, pursuant to Virginia Code § 58.1-3321 (B) and (C); and

NOW, THEREFORE, BE IT RESOLVED, THAT I, Robert "Bobby" Cutchins, Mayor, on behalf of the City of Franklin City Council, hereby reaffirm and ratify its decision that the FY24-25 tax rate of levy on real property is \$1.03 per \$100 of assessed value in the City of Franklin, Virginia.

Signed this 26th day of August 2024.

Robert "Bobby" Cutchins, Mayor
City of Franklin, Virginia

Councilman Linwood Johnson made a motion to approve Resolution #2024-24 with a second from Councilwoman Jessica Banks.

The motion carried the vote 6-1-0

The vote was as follows:

Councilman Linwood Johnson	Aye
Councilman Mark Kitchen	Aye
Councilwoman Jessica Banks	Aye
Vice-Mayor Wynndolyn Copeland	Aye
Mayor Robert Cutchins	Aye
Councilman Ray Smith	Absent
Councilman Gregory McLemore	Nay

Mayor Robert Cutchins affirmed the motion carried.

Ordinances & Resolutions

A. Ordinance #2024-12 Ordinance to Amend Chapter 23.5, Article I, Section 23.5-6: Contracts

Darlene Burcham, Interim City Manager stated the City has an ordinance that limits the amount that Department Heads can purchase at \$5,000.00. If it exceeds that amount the City Manager has to sign those purchase orders. This ordinance will increase the amount from \$5,000 to \$15,000.00.



Ordinance 2024-12

AN ORDINANCE TO AMEND THE CITY OF FRANKLIN CODE
CHAPTER 23.5: PROCUREMENT, ARTICLE I: IN GENERAL, SECTION 23.5-6: CONTRACTS

THE COUNCIL OF THE CITY OF FRANKLIN, VIRGINIA ORDAINS AS FOLLOWS:

That Chapter 23.5: Procurement, Article I: In General, Section 23.5-6: Contracts is hereby amended as follows:

§ 23.5-6 Contracts
[Ord. of 1-12-1998(2); amended by Ord. of 8-12-2002]

(a) A department head may execute contracts for goods, services or construction on behalf of the City which do not exceed ~~\$4,000~~ \$15,000 and which do not exceed the unencumbered balance available in the budgetary line of his or her department to which the expenditure is to be charged.

(b) The City Manager or the Director of Finance may execute contracts for goods, services, insurance and construction on behalf of the City which do not exceed the unencumbered balance available in the budgetary line to which the expenditure is to be charged. In the event that the amount of the contract exceeds the unencumbered balance available in the budgetary line to which the expenditure is to be charged, the contract must be approved by City Council, and the budget must be amended to designate the revenue source which will cover the expenditure.

THIS ORDINANCE SHALL BE EFFECTIVE IMMEDIATELY.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF FRANKLIN, VIRGINIA ON AUGUST 26, 2024.

ATTEST:

_____, Mayor

_____, Clerk

Councilman Linwood Johnson made a motion to approve Ordinance #2024-12. Councilman Gregory McLemore asked for clarification that this would give a Department Head the approval to spend up to \$15,000 without the City Manager approving. Mayor Bobby Cutchins and Darlene Burcham, Interim City Manager clarified that it does not affect the budget and is money that is already approved in the budget in line items.

Vice-Mayor Wynndolyn Copeland asked for clarification if this has been the normal protocol for Department Heads. Darlene Burcham, Interim City Manager stated, this has not been the norm for her, as long as the state procurement is followed.

Councilman Mark Kitchen seconded the motion.

The motion carried the vote 6-1-0

The vote was as follows:

Councilman Linwood Johnson	Aye
Councilman Mark Kitchen	Aye
Councilwoman Jessica Banks	Aye
Vice-Mayor Wynndolyn Copeland	Aye
Mayor Robert Cutchins	Aye
Councilman Ray Smith	Absent
Councilman Gregory McLemore	Nay

Mayor Robert Cutchins affirmed the motion carried.

present and two (2) not voting. It looks like the majority of the five which would be three (4), but according to the City charter, there needs to be four (4) to pass any motion. The first thing Council needs to do is make a motion to put the item back on for discuss then make a motion to either approve or deny.

Vice-Mayor Wynndolyn Copeland made a motion to revisit the action item Special Use Permit-204 Morton Street with a second from Councilman Mark Kitchen.

The motion carried the vote 4-1-1

The vote was as follows:

Councilman Linwood Johnson	Nay
Councilman Mark Kitchen	Aye
Councilwoman Jessica Banks	Aye
Vice-Mayor Wynndolyn Copeland	Aye
Mayor Robert Cutchins	Aye
Councilman Ray Smith	Absent
Councilman Gregory McLemore	Abstained

Mayor Robert Cutchins affirmed the motion carried.

Vice-Mayor Wynndolyn Copeland made a motion to approve the Special Use Permit-204 Morton Street with the conditions that the owner installs security cameras in proper areas for any issues that may occur or around the facility, proper lighting both inside and outside, and if any changes are needed for water usage, those will be completed. Councilman Mark Kitchen seconded the motion.

The motion carried the vote 5-1-0

The vote was as follows:

Councilman Linwood Johnson	Nay
Councilman Mark Kitchen	Aye
Councilwoman Jessica Banks	Aye
Vice-Mayor Wynndolyn Copeland	Aye
Mayor Robert Cutchins	Aye
Councilman Ray Smith	Absent
Councilman Gregory McLemore	Aye

Mayor Robert Cutchins affirmed the motion carried.

B. Council Comments

Councilman Mark Kitchen asked if the City code has been worked on to confirm with the state code regarding clippings in the

Councilman Gregory McLemore stated the proposed rehab facility could bring funds to the City some \$2 million a year, which the City can use to lower taxes.

C. City Managers Report

Darlene Burcham, Interim City Manager, reminded Council that City offices will be closed Monday, September 2nd in observance of Labor Day. She also recommended that Davenport seek interim financing for the Courthouse, Armory Park, and the Radio project to which the Council agree.

Closed Session

Councilman Mark Kitchen moved that the City Council of the City of Franklin, Virginia adjourn into closed meeting at 8:34 PM. Pursuant the authority granted by those sections of the Code of Virginia referenced on the agenda for the permitted purposes provided and to discuss those subjects described and set forth on the agenda. The motion was seconded by Councilman Linwood Johnson.

The motion carried with a vote 6-0

The vote was as follows:

Councilman Linwood Johnson	Aye
Councilman Mark Kitchen	Aye
Councilwoman Jessica Banks	Aye
Vice-Mayor Wynndolyn Copeland	Aye
Mayor Robert Cutchins	Aye
Councilman Ray Smith	Absent
Councilman Gregory McLemore	Aye

Mayor Robert Cutchins stated the motion carried.

Mayor Bobby Cutchins left the Closed Session at 8:15 PM.

Motion Upon Return to Open Session

Councilman Mark Kitchen moved that the City of Franklin, Virginia City Council certify that, to the best of each member’s knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting held on August 26, 2024 at 8:38 P.M., meeting were heard, discussed or considered by the City of Franklin, Virginia City Council; and (ii) no action was taken in closed meeting regarding the items discussed. The motion was seconded by Councilman Linwood Johnson.

The motion carried the vote 5-0

The vote was as follows:

Councilman Linwood Johnson	Aye
Councilman Mark Kitchen	Aye
Councilwoman Jessica Banks	Aye
Vice-Mayor Wynndolyn Copeland	Aye
Mayor Robert Cutchins	Absent
Councilman Ray Smith	Absent
Councilman Gregory McLemore	Aye

Vice-Mayor Wynndolyn Copeland stated the motion carried the vote.

Councilwoman Jessica Banks made a motion to appoint Rhonda Chambliss to the Southview Cemetery Committee with a second from Councilman Linwood Johnson.

The motion carried the vote 5-0

The vote was as follows:

Councilman Linwood Johnson	Aye
Councilman Mark Kitchen	Aye
Councilwoman Jessica Banks	Aye
Vice-Mayor Wynndolyn Copeland	Aye
Mayor Robert Cutchins	Absent
Councilman Ray Smith	Absent
Councilman Gregory McLemore	Aye

Vice-Mayor Wynndolyn Copeland stated the motion carried the vote.

Councilwoman Jessica Banks made a motion for the Interim City Manager to have a 3 week transition period with the new manager with a second from Councilman Linwood Johnson.

The motion failed to carry the vote 3-2-0

The vote was as follows:

Councilman Linwood Johnson	Aye
Councilman Mark Kitchen	Nay

Councilwoman Jessica Banks	Aye
Vice-Mayor Wynndolyn Copeland	Aye
Mayor Robert Cutchins	Absent
Councilman Ray Smith	Absent
Councilman Gregory McLemore	Nay

Vice-Mayor Wynndolyn Copeland stated the motion failed to carry.

Adjournment

Councilman Mark Kitchen made a motion to adjourn the August 26, 2024 City Council Meeting at 8:38 p.m. with a second from Councilman Linwood Johnson.

The motion carried the vote 5-0

The vote was as follows:

Councilman Linwood Johnson	Aye
Councilman Mark Kitchen	Aye
Councilwoman Jessica Banks	Aye
Vice-Mayor Wynndolyn Copeland	Aye
Mayor Robert Cutchins	Absent
Councilman Ray Smith	Absent
Councilman Gregory McLemore	Aye

Vice-Mayor Wynndolyn Copeland stated the meeting stands adjourned.

Mayor

Clerk to City Council



2024 Hunger Action Month Proclamation #2024-18

WHEREAS, hunger and poverty are issues of vital concern in Virginia where more than 11% of people face hunger in and one in every 7 children do not know where their next meal will come from; and

WHEREAS, everyone needs nutritious food to thrive, and in every community in America, people are working hard to provide for themselves and their families—yet in 2022, 44 million people—1 in 7—including more than 13 million children—1 in 5—faced food insecurity in the U.S. That includes 650 in the City of Franklin; and

WHEREAS, the City of Franklin of Virginia is committed to taking steps to combat hunger in every part of our community and to provide additional resources that those in Southeastern Virginia need; and

WHEREAS, the City of Franklin of Virginia is committed to working with the Foodbank of Southeastern Virginia and the Eastern Shore, a member of the Feeding America® nationwide network of food banks, in educating people about the role and importance of food banks in addressing hunger and raising awareness of the need to devote more resources and attention to hunger issues; and

WHEREAS, more than 13.8% of individuals in the City of Franklin rely on food provided by the members of the Foodbank of Southeastern Virginia and the Eastern Shore annually; and

WHEREAS, the members of the Foodbank of Southeastern Virginia and the Eastern Shore distributed more than 20 million meals to in fiscal year 2024. through its network of food pantries, soup kitchens, shelters, and other community organizations; and

WHEREAS, the month of September has been designated “Hunger Action Month” and September 10th as “Hunger Action Day” in order to bring attention to food insecurity in our communities and to enlist the public in the movement to end hunger by taking action – including volunteer shifts, social media shares, and donations – to ensure every community, and everybody in it, has the food they need to thrive.

WHEREAS, food banks across the country, including the members of the Federation of Virginia Food Banks – Foodbank of Southeastern Virginia and the Eastern Shore, Virginia Peninsula Foodbank, Feed More, Fredericksburg Regional Food Bank, Capital Area Food Bank, Blue Ridge Area Food Bank, and Feeding Southwest Virginia – will host numerous events throughout the month of September to bring awareness and help end hunger in their local community;

NOW, THEREFORE, I, Robert “Bobby” Cutchins II, do hereby recognize September 2024, as **HUNGER ACTION MONTH** in our City of Franklin of Virginia, and I call this observance to the attention of our citizens.

Signed this 9th day of September 2024

Robert “Bobby” Cutchins, Mayor
City of Franklin, Virginia



**Constitution Week
Proclamation #2024-19**

WHEREAS: September 17, 2024, marks the two hundred and thirty-seventh anniversary of the drafting of the Constitution of the United States of America by the Constitutional Convention; and

WHEREAS: It is fitting and proper to accord official recognition to this magnificent document and its memorable anniversary; and to the patriotic celebrations which will commemorate the occasion; and

WHEREAS: Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17th through 23rd as Constitution Week,

NOW, THEREFORE , BE IT RESOLVED, I, Robert Cutchins, by virtue of the authority vested in me as Mayor of the City of Franklin, Virginia do hereby proclaim the week of September 17th through 23rd as

CONSTITUTION WEEK

AND ask our citizens to reaffirm the ideals of the Framers of the constitution had in 1787 by vigilantly protecting the freedoms guaranteed to us through this guardian of our liberties, remembering that lost rights may never be regained.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Franklin, Virginia to be affixed this 9th day of September, 2024.

Robert “Bobby” Cutchins, Mayor
City of Franklin, Virginia

SEAL Attest: _____



Ordinance #2024-13

AN ORDINANCE TO REPLACE CHAPTERS 9 AND 25.8 AND ADOPT, ENACT, AND CODIFY A CONSOLIDATED EROSION AND STORMWATER MANAGEMENT PROGRAM IN THE CITY OF FRANKLIN, VIRGINIA, TO BE KNOWN AS THE EROSION AND STORMWATER MANAGEMENT ORDINANCE, AS AUTHORIZED BY VIRGINIA CODE § 62.1-44.15:27, TO BE CODIFIED AT CHAPTER 9 OF THE CODE OF ORDINANCES OF THE CITY OF FRANKLIN, VIRGINIA, BEING SECTIONS 9-1 THROUGH 9-23.

WHEREAS, the current Chapter 9 of the City Code was last updated in 2008; and

WHEREAS, pursuant to authority granted by the Code of Virginia of 1950, as amended (the “Code”), including without limitation §§ 62.1-44.15:27 *et seq.*, localities are empowered to adopt certain regulations governing the creation and regulation of a Virginia Erosion and Stormwater Management Program (“VESMP”); and

WHEREAS, at its June 22, 2023, meeting, the State Water Control Board repealed the Erosion and Sediment Control Regulations (9 VAC 25-840), the Erosion and Sediment Control and Stormwater Management Certification Regulations (9 VAC 25-850), and the Virginia Stormwater Management Program Regulation (9 VAC 25-870), and adopted the Virginia Erosion and Stormwater Management (“VESM”) Regulation, 9 VAC 25-875; and

WHEREAS, effective July 1, 2024, stormwater management and erosion and sediment control requirements are now combined under the Virginia Erosion and Stormwater Management Act (“VESMA”), Code §§ 62.1-44.15:24 *et seq.*; and

WHEREAS, the City of Franklin, Virginia (the “City”) must update its erosion and stormwater management ordinances to maintain conformity with the VESMA and the VESM Regulation; and

WHEREAS, the City Council finds that it is in the best interests of the City and its citizens to do so.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Franklin, Virginia, that the Erosion and Stormwater Management Ordinance authorized by Virginia Code § 62.1-44.15:27 is hereby adopted and enacted, and is to be codified at Chapter 9 of the Code of Ordinances of the City of Franklin, Virginia (the “City Code”), as shown in the attachment.

Certified copy of the ordinance adopted by the City Council at its regular meeting held on this 9th day of September, 2024.

ADOPTED:

Robert Cutchins, Mayor

CERTIFIED:

Clerk to the City Council

Attachment:

Chapter 9 – Erosion and Stormwater Management Ordinance

Section 9-1. TITLE, PURPOSE, AND AUTHORITY.

- A. *This ordinance shall be known as the "Erosion and Stormwater Management Ordinance of the City of Franklin".*
- B. *The purpose of this ordinance is to ensure the general health, safety, and welfare of the citizens of the City, protect the quality and quantity of state waters from the potential harm of unmanaged stormwater and soil erosion, including protection from a land disturbing activity causing unreasonable degradation of properties, water quality, stream channels, and other natural resources, and to establish procedures whereby stormwater requirements related to water quality and quantity shall be administered and enforced.*
- C. *This ordinance is authorized by § 62.1-44.15:27 of the Code of Virginia.*

Section 9-2. DEFINITIONS.

The following words and terms, when used in this ordinance, shall have the following meanings, unless the context clearly indicates otherwise.

"Adequate channel" means a channel that will convey the designated frequency storm event without overtopping the channel bank nor causing erosive damage to the channel bed or banks.

"Administrator" means The VESMP authority for the City of Franklin. "Administrator" also includes any duly authorized agent of the administrator.

"Agreement in lieu of a plan" means a contract between the VESMP authority and the owner or permittee that specifies methods that shall be implemented to comply with the requirements of the VESMA and this ordinance for the construction of a (i) single-family detached residential structure or (ii) farm building or structure on a parcel of land with a total impervious cover percentage, including the impervious cover from the farm building or structure to be constructed, of less than five percent; such contract may be executed by the VESMP authority in lieu of a soil erosion control and stormwater management plan.

"Applicant" means person submitting a soil erosion control and stormwater management plan to a VESMP authority for approval in order to obtain authorization to commence a land-disturbing activity.

"Best management practice" or "BMP" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices, including both structural and nonstructural practices, to prevent or reduce the pollution of surface waters and groundwater systems.

1. *"Nonproprietary best management practice" means both structural and nonstructural practices to prevent or reduce the pollution of surface waters and groundwater systems that are in the public domain and are not protected by trademark or patent or copyright.*

2. *"Proprietary best management practice" means both structural and nonstructural practices to prevent or reduce the pollution of surface waters and groundwater systems that are privately owned and controlled and may be protected by trademark or patent or copyright.*

"Board" means the State Water Control Board.

"Causeway" means a temporary structural span constructed across a flowing watercourse or wetland to allow construction traffic to access the area without causing erosion damage.

"Certified Inspector" means an employee of the City who:

- 1) *Holds a certificate of competence from the Board in the area of project inspection; or*
- 2) *Is enrolled in the Board's training program for project inspection and successfully completes such program within one year after enrollment.*

"Certified Plan Reviewer" means an employee of the City who:

- 1) *Holds a certificate of competence from the Board in the area of plan review;*
- 2) *Is enrolled in the Board's training program for plan review and successfully completes such program within one year after enrollment; or*
- 3) *Is licensed as a professional engineer, architect, landscape architect or land surveyor pursuant to Code of Virginia, § 54.1-400 et seq.*

"Certified Program Administrator or Administrator" means an employee of the City who:

- 1) *Holds a certificate of competence from the Board in the area of program administration; or*
- 2) *Is enrolled in the Board's training program for program administration and successfully completes such program within one year after enrollment.*

"Channel" means a natural stream or manmade waterway.

"City" means the City of Franklin.

"Clean Water Act" or "CWA" means the federal Clean Water Act (33 USC § 1251 et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, or any subsequent revisions thereto.

"Clearing" means any activity which removes the vegetative ground cover, including, but not limited to, root mat removal or topsoil removal.

"Cofferdam" means a watertight temporary structure in a river, lake, etc., for keeping the water from an enclosed area that has been pumped dry so that bridge foundations, dams, etc., may be constructed.

"Common plan of development or sale" means a contiguous area where separate and distinct construction activities may be taking place at different times on different schedules.

"Comprehensive stormwater management plan" means a plan, which may be integrated with other land use plans or regulations that specifies how the water quality components, quantity components, or both of stormwater are to be managed on the basis of an entire watershed or a portion thereof. The plan may also provide for the remediation of erosion, flooding, and water quality and quantity problems caused by prior development.

"Construction activity" means any clearing, grading, or excavation associated with large construction activity or associated with small construction activity.

"Control measure" means any BMP, stormwater facility, or other method used to minimize the discharge of pollutants to state waters.

"CWA and regulations" means the Clean Water Act and applicable regulations published in the Code of Federal Regulations promulgated thereunder. For the purposes of this ordinance, it includes state program requirements.

"Dam" means a barrier to confine or raise water for storage or diversion, to create a hydraulic head, to prevent gully erosion, or to retain soil, rock or other debris.

"Denuded" means a term applied to land that has been physically disturbed and no longer supports vegetative cover.

"Department" means the Virginia Department of Environmental Quality.

"Development" means land disturbance and the resulting landform associated with the construction of residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures or the clearing of land for nonagricultural or nonsilvicultural purposes. The regulation of discharges from development, for purposes of stormwater management, does not include the exclusions found in 9VAC25-875-860.

"Dike" means an earthen embankment constructed to confine or control water, especially one built along the banks of a river to prevent overflow of lowlands; levee.

"Discharge" when used without qualification, means the discharge of a pollutant.

"Discharge of a pollutant" means:

- 1. Any addition of any pollutant or combination of pollutants to state waters from any point source; or*
- 2. Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation. This definition includes additions of pollutants into surface waters from: surface runoff that is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person that do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any indirect discharger.*

"District" or "soil and water conservation district" means a political subdivision of the Commonwealth organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1 of the Code of Virginia.

"Diversion" means a channel with a supporting ridge on the lower side constructed across or at the bottom of a slope for the purpose of intercepting surface runoff.

"Dormant" means denuded land that is not actively being brought to a desired grade or condition.

"Drainage area" means a land area, water area, or both from which runoff flows to a common point.

"Energy dissipator" means a nonerodible structure which reduces the velocity of concentrated flow to reduce its erosive effects.

"Environmental Protection Agency" or "EPA" means the United States Environmental Protection Agency.

"Erosion and sediment control plan" means a document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to ensure that the entire unit or units of land will be so treated to achieve the conservation objectives.

"Erosion impact area" means an area of land that is not associated with a current land-disturbing activity but is subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes or to shorelines where the erosion results from wave action or other coastal processes.

"ESC" means erosion and sediment control.

"ESM plan" means a soil erosion control and stormwater management plan, commonly referred to as the erosion control and stormwater management plan.

"Excavating" means any digging, scooping or other methods of removing earth materials.

"Farm building or structure" means the same as that term is defined in § 36-97 of the Code of Virginia and also includes any building or structure used for agritourism activity, as defined in § 3.2-6400 of the Code of Virginia, and any related impervious services including roads, driveways, and parking areas.

"Filling" means any depositing or stockpiling or other methods of removing earth materials.

"Flood fringe" means the portion of the floodplain outside the floodway that is usually covered with water from the 100-year flood or storm event. This includes the flood or floodway fringe designated by the Federal Emergency Management Agency.

"Flooding" means a volume of water that is too great to be confined within the banks or walls of the stream, water body, or conveyance system and that overflows onto adjacent lands, thereby causing or threatening damage.

"Floodplain" means the area adjacent to a channel, river, stream, or other water body that is susceptible to being inundated by water normally associated with the 100-year flood or storm event. This includes the floodplain designated by the Federal Emergency Management Agency.

"Flood-prone area" means the component of a natural or restored stormwater conveyance system that is outside the main channel. Flood-prone areas may include the floodplain, the floodway, the flood fringe, wetlands, riparian buffers, or other areas adjacent to the main channel.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas, usually associated with flowing water, that must be reserved in order to discharge the 100-year flood or storm event without cumulatively increasing the water surface elevation more than one foot. This includes the floodway designated by the Federal Emergency Management Agency.

"Flume" means a constructed device lined with erosion-resistant materials intended to convey water on steep grades.

"General permit" means a permit authorizing a category of discharges under the CWA and the VESMA within a geographical area.

"Grading" means any excavating or filling of earth material or any combination thereof, including the land in its excavated or filled conditions.

"Hydrologic Unit Code" or "HUC" means a watershed unit established in the most recent version of Virginia's 6th Order National Watershed Boundary Dataset unless specifically identified as another order.

"Impervious cover" means a surface composed of material that significantly impedes or prevents natural infiltration of water into soil.

"Incorporated place" means a city, town, township, or village that is incorporated under the Code of Virginia.

"Inspection" means an on-site review of the project's compliance with any applicable design criteria, or an on-site review to obtain information or conduct surveys or investigations necessary in the implementation or enforcement of the VESMA and applicable regulations.

"Karst area" means any land area predominantly underlain at the surface or shallow subsurface by limestone, dolomite, or other soluble bedrock regardless of any obvious surface karst features.

"Karst features" means sinkholes, sinking and losing streams, caves, large flow springs, and other such landscape features found in karst areas.

"Land disturbance" or "land-disturbing activity" means a manmade change to the land surface that may result in soil erosion or has the potential to change its runoff characteristics, including construction activity such as the clearing, grading, excavating, or filling of land.

"Land-disturbance approval" means an approval allowing a land-disturbing activity to commence issued by the VESMP authority after the requirements of § 62.1-44.15:34 of the Code of Virginia have been met.

"Land-disturbing Permit" means a permit issued by the City for the clearing, grading, excavating, transporting and filling of land or any combination thereof or for any other purpose set forth herein.

"Large construction activity" means construction activity including clearing, grading, and excavation, except operations that result in the disturbance of less than five acres of total land area. Large construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more. Large construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

"Layout" means a conceptual drawing sufficient to provide for the specified stormwater management facilities required at the time of approval.

"Linear development project" means a land-disturbing activity that is linear in nature such as, but not limited to, (i) the construction of electric and telephone utility lines, and natural gas pipelines; (ii) construction of tracks, rights-of-way, bridges, communication facilities and other related structures of a railroad company; (iii) highway construction projects; (iv) construction of stormwater channels and stream restoration activities; and (v) water and sewer lines. Private subdivision roads or streets shall not be considered linear development projects.

"Live watercourse" means a definite channel with bed and banks within which concentrated water flows continuously.

"Locality" means City of Franklin.

"Localized flooding" means smaller scale flooding that may occur outside of a stormwater conveyance system. This may include high water, ponding, or standing water from stormwater runoff, which is likely to cause property damage or unsafe conditions.

"Main channel" means the portion of the stormwater conveyance system that contains the base flow and small frequent storm events.

"Manmade" means constructed by man.

"Minimize" means to reduce or eliminate the discharge of pollutants to the extent achievable using stormwater controls that are technologically available and economically practicable.

"Minor modification" means modifications and amendments not requiring extensive review and evaluation including changes in EPA promulgated test protocols, increasing monitoring frequency requirements, changes in sampling locations, and changes to compliance dates within the overall compliance schedules. A minor permit modification or amendment does not substantially alter permit conditions, substantially increase or decrease the amount of surface water impacts, increase the size of the operation, or reduce the capacity of the facility to protect human health or the environment.

"Natural channel design concepts" means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.

"Natural stream" means a tidal or nontidal watercourse that is part of the natural topography. It usually maintains a continuous or seasonal flow during the year and is characterized as being irregular in cross-section with a meandering course. Constructed channels

such as drainage ditches or swales shall not be considered natural streams; however, channels designed utilizing natural channel design concepts may be considered natural streams.

"Nonerodible" means a material, e.g., riprap, concrete, plastic, etc., that will not experience surface wear due to natural forces.

"Nonpoint source pollution" means pollution such as sediment, nitrogen, phosphorous, hydrocarbons, heavy metals, and toxics whose sources cannot be pinpointed but rather are washed from the land surface in a diffuse manner by stormwater.

"Operator" means the owner or operator of any facility or activity subject to the VESMA and this ordinance. In the context of stormwater associated with a large or small construction activity, operator means any person associated with a construction project that meets either of the following two criteria: (i) the person has direct operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications or (ii) the person has day-to-day operational control of those activities at a project that are necessary to ensure compliance with a stormwater pollution prevention plan for the site or other permit or VESMP authority permit conditions (i.e., they are authorized to direct workers at a site to carry out activities required by the stormwater pollution prevention plan or comply with other permit conditions).

"Owner" means the same as that term is defined in § 62.1-44.3 of the Code of Virginia. For a regulated land-disturbing activity that does not require a permit, "owner" also means the owner or owners of the freehold of the premises or lesser estate therein, mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation in control of a property.

"Peak flow rate" means the maximum instantaneous flow from a prescribed design storm at a particular location.

"Percent impervious" means the impervious area within the site divided by the area of the site multiplied by 100.

"Permit" means a VPDES permit issued by the department pursuant to § 62.1-44.15 of the Code of Virginia for stormwater discharges from a land-disturbing activity.

"Permittee" means the person to whom the permit is issued.

"Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town, or other political subdivision of the Commonwealth, governmental body, including a federal or state entity as applicable, any interstate body, or any other legal entity.

"Plan-approving Authority" means the City of Franklin.

"Point of discharge" means a location at which concentrated stormwater runoff is released.

"Point source" means any discernible, confined, and discrete conveyance including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

"Pollutant discharge" means the average amount of a particular pollutant measured in pounds per year or other standard reportable unit as appropriate, delivered by stormwater runoff.

"Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare, or to the health of animals, fish or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters, or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution, but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the State Water Control Board, are "pollution" for the terms and purposes of this ordinance.

"Post-development" refers to conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land.

"Predevelopment" refers to the conditions that exist at the time that plans for the land-disturbing activity are submitted to the VESMP authority. Where phased development or plan approval occurs (preliminary grading, demolition of existing structures, roads and utilities, etc.), the existing conditions at the time prior to the commencement of land-disturbing activity shall establish predevelopment conditions.

"Prior developed lands" means land that has been previously utilized for residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures, and that will have the impervious areas associated with those uses altered during a land-disturbing activity.

"Program Authority" means the City of Franklin.

"Qualified personnel" means a person knowledgeable in the principles and practices of erosion and sediment and stormwater management controls who possesses the skills to assess conditions at the construction site for the operator that could impact stormwater quality and quantity and to assess the effectiveness of any sediment and erosion control measures or stormwater management facilities selected to control the quality and quantity of stormwater discharges from the construction activity.

"Regulations" means the Virginia Erosion and Stormwater Management Program (VESMP) Regulations, 9 VAC 25-875 of the Code of Virginia, as amended.

"Responsible land disturber" or "RLD" means an individual holding a certificate issued by the department who is responsible for carrying out the land-disturbing activity in accordance with the approved erosion and sediment control plan or ESM plan. The RLD may be the owner, applicant, permittee, designer, superintendent, project manager, contractor, or any other project or development team member. The RLD must be designated on the erosion and sediment control plan, ESM plan, or permit as defined in this ordinance as a prerequisite for engaging in land disturbance.

"Runoff" or "stormwater runoff" means that portion of precipitation that is discharged across the land surface or through conveyances to one or more waterways.

"Runoff characteristics" includes maximum velocity, peak flow rate, volume, and flow duration.

"Runoff volume" means the volume of water that runs off the land development project from a prescribed storm event.

"Sediment basin" means a temporary impoundment built to retain sediment and debris with a controlled stormwater release structure.

"Sediment trap" means a temporary impoundment built to retain sediment and debris which is formed by constructing an earthen embankment with a stone outlet.

"Sheet flow" (also called overland flow) means shallow, unconcentrated and irregular flow down a slope. The length of strip for overland flow usually does not exceed 200 feet under natural conditions.

"Shoreline erosion control project" means an erosion control project approved by local wetlands boards, the Virginia Marine Resources Commission, the department, or the United States Army Corps of Engineers and located on tidal waters and within nonvegetated or vegetated wetlands as defined in Title 28.2 of the Code of Virginia.

"Single-family Residence" means a noncommercial dwelling that is occupied exclusively by one family.

"Site" means the land or water area where any facility or land-disturbing activity is physically located or conducted, including adjacent land used or preserved in connection with the facility or land-disturbing activity. Areas channelward of mean low water in tidal Virginia shall not be considered part of a site.

"Site hydrology" means the movement of water on, across, through, and off the site as determined by parameters including soil types, soil permeability, vegetative cover, seasonal water tables, slopes, land cover, and impervious cover.

"Slope drain" means tubing or conduit made of nonerosive material extending from the top to the bottom of a cut or fill slope with an energy dissipator at the outlet end.

"Small construction activity" means:

1. *Construction activities including clearing, grading, and excavating that results in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. The department may waive the otherwise applicable requirements in a general permit for a stormwater discharge from construction activities that disturb less than five acres where stormwater controls are not needed based on an approved "total maximum daily load" (TMDL) that addresses the pollutants of concern or, for nonimpaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the pollutants of concern or that determines that such allocations are not needed to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. For the purpose of this subdivision, the pollutants of concern include sediment or a parameter that addresses sediment (such as total suspended solids, turbidity, or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. The operator shall certify to the department that the construction activity will take place, and stormwater discharges will occur, within the drainage area addressed by the TMDL or provide an equivalent analysis. As of the start date in Table 1 of 9VAC25-31-1020, all certifications submitted in support of the waiver shall be submitted electronically by the owner or operator to the department in compliance with this subdivision and 40 CFR Part 3 (including, in all cases, 40 CFR Part 3 Subpart D), 9VAC25-875-940, and Part XI (9VAC25-31-950 et seq.) of the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation. Part XI of 9VAC25-31 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part XI of 9VAC25-31, permittees may be required to report electronically if specified by a particular permit.*

2. *Any other construction activity designated by either the department or the EPA regional administrator, based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to surface waters.*

"Soil erosion" means the movement of soil by wind or water into state waters or onto lands in the Commonwealth.

"Soil erosion control and stormwater management plan," commonly referred to as the erosion control and stormwater management plan, or "ESM plan" means a document describing methods for controlling soil erosion and managing stormwater in accordance with the requirements adopted pursuant to the VESMA. The ESM plan may consist of aspects of the erosion and sediment control plan and the stormwater management plan as each is described in this ordinance.

"Stabilized" means land that has been treated to withstand normal exposure to natural forces without incurring erosion damage.

"State" means the Commonwealth of Virginia.

"State application" or "application" means the standard form or forms, including any additions, revisions, or modifications to the forms, approved by the administrator and the department for applying for a permit.

"State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia.

"State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.

"Storm sewer inlet" means a structure through which stormwater is introduced into an underground conveyance system.

"Stormwater," for the purposes of the VESMA, means precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage.

"Stormwater conveyance system" means a combination of drainage components that are used to convey stormwater discharge, either within or downstream of the land-disturbing activity. This includes:

- 1. "Manmade stormwater conveyance system" means a pipe, ditch, vegetated swale, or other stormwater conveyance system constructed by man except for restored stormwater conveyance systems;*
- 2. "Natural stormwater conveyance system" means the main channel of a natural stream and the flood-prone area adjacent to the main channel; or*
- 3. "Restored stormwater conveyance system" means a stormwater conveyance system that has been designed and constructed using natural channel design concepts. Restored stormwater conveyance systems include the main channel and the flood-prone area adjacent to the main channel.*

"Stormwater detention" means the process of temporarily impounding runoff and discharging it through a hydraulic outlet structure to a downstream conveyance system.

"Stormwater management facility" means a control measure that controls stormwater runoff and changes the characteristics of that runoff including the quantity and quality, the period of release or the velocity of flow.

"Stormwater management plan" means a document containing material describing methods for complying with the requirements of the VESMP.

"Stormwater Pollution Prevention Plan" or "SWPPP" means a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges. A SWPPP required under the VESMP for construction activities shall identify and require the implementation of control measures and shall include or incorporate by reference an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan.

"Subdivision" means the same as defined in § 15.2-2201 of the Code of Virginia.

"Surface waters" means:

- 1. All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide;*
- 2. All interstate waters, including interstate wetlands;*
- 3. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 - a. That are or could be used by interstate or foreign travelers for recreational or other purposes;*
 - b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or*
 - c. That are used or could be used for industrial purposes by industries in interstate commerce;**
- 4. All impoundments of waters otherwise defined as surface waters under this definition;*
- 5. Tributaries of waters identified in subdivisions 1 through 4 of this definition;*
- 6. The territorial sea; and*
- 7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in subdivisions 1 through 6 of this definition.*

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA and the law, are not surface waters. Surface waters do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other agency, for the purposes of the CWA, the final authority regarding the CWA jurisdiction remains with the EPA.

"SWM" means stormwater management.

"Temporary vehicular stream crossing" means a temporary nonerodible structural span installed across a flowing watercourse for use by construction traffic. Structures may include bridges, round pipes or pipe arches constructed on or through nonerodible material.

"Ten-year storm" means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in 10 years. It may also be expressed as an exceedance probability with a 10% chance of being equaled or exceeded in any given year.

"Total maximum daily load" or "TMDL" means the sum of the individual wasteload allocations for point sources, load allocations (LAs) for nonpoint sources, natural background loading, and a margin of safety. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure. The TMDL process provides for point versus nonpoint source trade-offs.

"Town" means an incorporated town.

"Transporting" means any moving of earth materials from one place to another place, other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.

"Two-year storm" means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in two years. It may also be expressed as an exceedance probability with a 50% chance of being equaled or exceeded in any given year.

"Virginia Erosion and Stormwater Management Act" or "VESMA" means Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1, State Water Control Law, of Title 62.1 of the Code of Virginia.

"Virginia Erosion and Stormwater Management Program" or "VESMP" means a program established by the VESMP authority for the effective control of soil erosion and sediment deposition and the management of the quality and quantity of runoff resulting from land-disturbing activities to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources. The program shall include such items as local ordinances, rules, requirements for permits and land-disturbance approvals, policies and guidelines, technical materials, and requirements for plan review, inspection, and enforcement consistent with the requirements of the VESMA.

"Virginia Erosion and Stormwater Management Program authority" or "VESMP authority" means the City of Franklin's designated entity approved by the department to operate the VESMP.

"Virginia Pollutant Discharge Elimination System (VPDES) permit" or "VPDES permit" means a document issued by the department pursuant to the State Water Control Law authorizing, under prescribed conditions, the potential or actual discharge of pollutants from a point source to surface waters.

"Virginia Stormwater BMP Clearinghouse" means a collection that contains detailed design standards and specifications for control measures that may be used in Virginia to comply with the requirements of the VESMA and associated regulations.

"Virginia Stormwater Management Handbook" means a collection of pertinent information that provides general guidance for compliance with the VESMA and associated regulations and is developed by the department with advice from a stakeholder advisory committee.

"Wasteload allocation" or "wasteload" means the portion of a receiving surface water's loading or assimilative capacity allocated to one of its existing or future point sources of pollution. Wasteload allocations are a type of water quality-based effluent limitation.

"Water quality technical criteria" means standards set forth in regulations adopted pursuant to the VESMA that establish minimum design criteria for measures to control nonpoint source pollution.

"Water quantity technical criteria" means standards set forth in regulations adopted pursuant to the VESMA that establish minimum design criteria for measures to control localized flooding and stream channel erosion.

"Watershed" means a defined land area drained by a river or stream, karst system, or system of connecting rivers or streams such that all surface water within the area flows through a single outlet. In karst areas, the karst feature to which water drains may be considered the single outlet for the watershed.

"Wetlands" means those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Section 9-3. VIRGINIA EROSION AND STORMWATER MANAGEMENT PROGRAM ESTABLISHED.

Pursuant to § 62.1-44.15:27 of the Code of Virginia, the City of Franklin hereby establishes a Virginia Erosion and Stormwater Management Program for land-disturbing activities and adopts the Virginia Erosion and Stormwater Management Regulation that specify standards and specifications for VESMPs promulgated by the State Water Control Board for the purposes set out in Section 9-1 of this Ordinance. The City of Franklin hereby designates the VESMP authority as the Administrator of the Virginia Erosion and Stormwater Management Program established by this Ordinance.

Section 9-4. REGULATED LAND DISTURBING ACTIVITIES.

A. *Land-disturbing activities that meet one of the criteria below are regulated as follows:*

1. *Land-disturbing activity that disturbs 5,000 square feet or more, is less than one acre, and not part of a common plan of development or sale, is subject to criteria defined in Article 2 (9VAC25-875-540 et seq.) of Part V of the Virginia Erosion and Stormwater Management Regulation (Regulation).*
2. *Land-disturbing activity that disturbs less than one acre, but is part of a larger common plan of development or sale that disturbs one acre or more, is subject to criteria defined in Article 2 (9VAC25-875-540 et seq.) and Article 3 (9VAC25-875- 570 et seq.) of Part V unless Article 4 (9VAC25-875-670 et seq) of Part V of the Regulation is applicable, as determined in accordance with 9VAC25-875-480 and 9VAC25-875-490.*
3. *Land-disturbing activity that disturbs one acre or more is subject to criteria defined in Article 2 (9VAC25-875-540 et seq.) and Article 3 (9VAC25-875-570 et seq.) of Part V unless Article 4 (9VAC25-875-670 et seq.) of Part V is applicable, as determined in accordance with 9VAC25-875-480 and 9VAC25-875-490.*

B. *Land-disturbing activities exempt per 9VAC25-875-90 are not required to comply with the requirements of the VESMA unless otherwise required by federal law.*

Section 9-5. REVIEW AND APPROVAL OF PLANS; PROHIBITIONS.

A. *The VESMP authority shall review and approve soil erosion control and stormwater management (ESM) plans, except for activities not required to comply with the requirements of the Virginia Erosion and Stormwater Management Act (VESMA), pursuant to § 62.1-44.15:34 of the Code of Virginia. Activities not required to comply with VESMA are defined in 9VAC25-875-90.*

B. *A person shall not conduct any land-disturbing activity in the City until:*

1. *An application that includes a permit registration statement, if required, a soil erosion control and stormwater management plan or an executed agreement in lieu of a plan, if required, has been submitted to the VESMP authority;*
2. *The name of the individual who will be assisting the owner in carrying out the activity and holds a Responsible Land Disturber certificate pursuant to § 62.1- 44.15:30 of the Code of Virginia is submitted to the VESMP authority except that such certificate shall not be required where an agreement in lieu of a plan for construction of a single-family detached residential structure is provided; however, if a violation occurs during the land-disturbing activity for the single-family detached residential structure, then the owner shall correct the violation and provide the name of the individual holding a Responsible Land Disturber certificate as provided by § 62.1-14:30 of the Code of Virginia. Failure to provide the name of an individual holding a Responsible Land*

Disturber certificate prior to engaging in land-disturbing activities may result in revocation of the land-disturbance approval and shall subject the owner to the penalties provided by the VESMA; and

3. *The VESMP authority has issued its land-disturbance approval. In addition, as a prerequisite to engaging in an approved land-disturbing activity, the name of the individual who will be assisting the owner in carrying out the activity and holds a Responsible Land Disturber certificate pursuant to § 62.1-44.15:30 of the Code of Virginia shall be submitted to the VESMP authority. The VESMP authority may waive the Responsible Land Disturber certificate requirement for an agreement in lieu of a plan for construction of a single-family detached residential structure; however, if a violation occurs during the land-disturbing activity for the single-family detached residential structure, then the owner shall correct the violation and provide the name of the individual holding a Responsible Land Disturber certificate as provided by § 62.1-14:30 of the Code of Virginia. Failure to provide the name of an individual holding a Responsible Land Disturber certificate prior to engaging in land-disturbing activities may result in revocation of the land-disturbance approval and shall subject the owner to the penalties provided the Act.*

C. The VESMP authority may require changes to an approved ESM plan in the following cases:

1. *Where inspection has revealed that the plan is inadequate to satisfy applicable regulations or ordinances; or*
2. *Where the owner finds that because of changed circumstances or for other reasons the plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of the Act, are agreed to by the VESMP authority and the owner.*

D. In order to prevent further erosion, the VESMP authority may require approval of an erosion and sediment control plan and a stormwater management plan for any land it identifies as an erosion impact area in accordance with § 62.1-44.15:34 of the Code of Virginia.

E. Prior to issuance of any land-disturbance approval, the VESMP authority may also require an applicant, excluding state agencies and federal entities, to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement it finds acceptable, to ensure that it can take measures at the applicant's expense should he fail, after proper notice, within the time specified to comply with the conditions it imposes as a result of his land-disturbing activity. If the VESMP authority takes such action upon such failure by the applicant, it may collect from the applicant the difference should the amount of the reasonable cost of such action exceed the amount of the security held. Within 60 days of the completion of the VESMP authority's conditions, such bond, cash escrow, letter of credit, or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated.

- F. *The VESMP authority may enter into an agreement with an adjacent VESMP authority regarding the administration of multijurisdictional projects, specifying who shall be responsible for all or part of the administrative procedures. Should adjacent VESMP authorities fail to reach such an agreement, each shall be responsible for administering the area of the multijurisdictional project that lies within its jurisdiction.*
- G. *No exception to, or waiver of, post-development nonpoint nutrient runoff compliance requirements shall be granted unless offsite options have been considered and found not available in accordance with subsection D of § 62.1-44.15:35 of the Code of Virginia.*
- H. *The VESMP authority is authorized to cooperate and enter into agreements with any federal or state agency in connection with the requirements for land-disturbing activities in accordance with § 62.1-44.15:50 of the Code of Virginia.*

Section 9-6. REVIEW OF A SOIL EROSION CONTROL AND STORMWATER MANAGEMENT PLAN.

- A. *The VESMP authority shall approve or disapprove an ESM plan according to the following:*
 - 1. *The VESMP authority shall determine the completeness of any application within 15 days after receipt, and shall act on any application within 60 days after it has been determined to be complete.*
 - 2. *The VESMP authority shall issue either land-disturbance approval or denial and provide written rationale for any denial.*
 - 3. *Prior to issuing a land-disturbance approval, the VESMP authority shall be required to obtain evidence of permit coverage when such coverage is required.*
 - 4. *The VESMP authority also shall determine whether any resubmittal of a previously disapproved application is complete within 15 days after receipt and shall act on the resubmitted application within 45 days after receipt.*

Section 9-7. STORMWATER PERMIT REQUIREMENT; EXEMPTIONS.

- A. *Except as provided herein, no person may engage in any land-disturbing activity until a permit has been issued by the VESMP authority in accordance with the provisions of this ordinance and the Regulation.*
- B. *Notwithstanding any other provisions of this ordinance, the following activities are not required to comply with the requirements of this ordinance unless otherwise required by federal law:*

1. *Minor land-disturbing activities, including home gardens and individual home landscaping, repairs, and maintenance work;*
2. *Installation, maintenance, or repair of any individual service connection;*
3. *Installation, maintenance, or repair of any underground utility line when such activity occurs on an existing hard surfaced road, street, or sidewalk, provided the land-disturbing activity is confined to the area of the road, street, or sidewalk that is hard surfaced;*
4. *Installation, maintenance, or repair of any septic tank line or drainage field unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;*
5. *Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.2 of the Code of Virginia;*
6. *Clearing of lands specifically for bona fide agricultural purposes; the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops; livestock feedlot operations; agricultural engineering operations, including construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; or as additionally set forth by the Board in regulations. However, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq. of the Code of Virginia) or is converted to bona fide agricultural or improved pasture use as described in subsection B of § 10.1-1163 of the Code of Virginia;*
7. *Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;*
8. *Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission, or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to the VESMA and the regulations adopted pursuant thereto;*
9. *Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company;*
10. *Land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the VESMP authority shall be advised of the disturbance within seven days of commencing the land-disturbing activity,*

and compliance with the administrative requirements of subsection A is required within 30 days of commencing the land-disturbing activity; and

11. Discharges to a sanitary sewer or a combined sewer system; that are not from a land-disturbing activity.

C. Notwithstanding this ordinance and in accordance with the Virginia Erosion and Stormwater Management Act, Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia, the following activities are required to comply with the soil erosion control requirements but are not required to comply with the water quantity and water quality technical criteria, unless otherwise required by federal law:

1. Activities under a state or federal reclamation program to return an abandoned property to an agricultural or open land use;

2. Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this subsection; and

3. Discharges from a land-disturbing activity to a sanitary sewer or a combined sewer system.

Section 9-8. STORMWATER POLLUTION PREVENTION PLAN; CONTENTS OF PLAN.

A. A stormwater pollution prevention plan shall include, but not be limited to, an approved erosion and sediment control plan, an approved stormwater management plan, a pollution prevention plan for regulated land-disturbing activities, and a description of any additional control measures necessary to address a TMDL pursuant to subsection D of this section.

B. A soil erosion control and stormwater management (ESM) plan consistent with the requirements of the Virginia Erosion and Stormwater Management Act (VESMA) and regulations must be designed and implemented during construction activities. Prior to land disturbance, this plan must be approved by the VESMP authority in accordance with the VESMA, this ordinance, and attendant regulations.

C. A pollution prevention plan that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from the construction site and describe control measures that will be used to minimize pollutants in stormwater discharges from the construction site must be developed before land disturbance commences.

D. In addition to the requirements of subsections A through C of this section, if a specific wasteload allocation for a pollutant has been established in an approved TMDL and is

assigned to stormwater discharges from a construction activity, additional control measures must be identified and implemented by the operator so that discharges are consistent with the assumptions and requirements of the wasteload allocation.

E. The stormwater pollution prevention plan must address the following requirements as specified in 40 CFR 450.21, to the extent otherwise required by state law or regulations and any applicable requirements of a state permit:

1. Control stormwater volume and velocity within the site to minimize soil erosion;

2. Control stormwater discharges, including both peak flow rates and total stormwater volume, to minimize erosion at outlets and to minimize downstream channel and stream bank erosion;

3. Minimize the amount of soil exposed during construction activity;

4. Minimize the disturbance of steep slopes;

5. Minimize sediment discharges from the site. The design, installation and maintenance of erosion and sediment controls must address factors such as the amount, frequency, intensity and duration of precipitation, the nature of resulting stormwater runoff, and soil characteristics, including the range of soil particle sizes expected to be present on the site;

6. Provide and maintain natural buffers around surface waters, direct stormwater to vegetated areas to increase sediment removal and maximize stormwater infiltration, unless infeasible;

7. Minimize soil compaction and, unless infeasible, preserve topsoil;

8. Stabilization of disturbed areas must, at a minimum, be initiated immediately whenever any clearing, grading, excavating, or other earth disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. Stabilization must be completed within a period of time determined by the VESMP authority. In arid, semiarid, and drought-stricken areas where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures must be employed as specified by the VESMP authority; and

9. Utilize outlet structures that withdraw water from the surface, unless infeasible, when discharging from basins and impoundments.

F. The SWPPP shall be amended whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to state waters and that has not been previously addressed in the SWPPP. The SWPPP must

be maintained at a central location onsite. If an onsite location is unavailable, notice of the SWPPP's location must be posted near the main entrance at the construction site.

Section 9-9. STORMWATER MANAGEMENT PLAN; CONTENTS OF PLAN.

A. A stormwater management plan shall be developed and submitted to the VESMP authority. The stormwater management plan shall be implemented as approved or modified by the VESMP authority and shall be developed in accordance with the following:

1. A stormwater management plan for a land-disturbing activity shall apply the stormwater management technical criteria set forth in this ordinance and Article 4 (9VAC25-875-670 et seq) of Part V of the Regulation to the entire land-disturbing activity. Individual lots in new residential, commercial, or industrial developments, including those developed under subsequent owners, shall not be considered separate land-disturbing activities.

2. A stormwater management plan shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface runoff.

B. A complete stormwater management plan shall include the following elements:

1. Information on the type of and location of stormwater discharges, information on the features to which stormwater is being discharged including surface waters or karst features if present, and predevelopment and post-development drainage areas;

2. Contact information including the name, address, telephone number, and email address of the owner and the tax reference number and parcel number of the property or properties affected;

3. A narrative that includes a description of current site conditions and final site conditions or if allowed by the VESMP authority, the information provided and documented during the review process that addresses the current and final site conditions;

4. A general description of the proposed stormwater management facilities and the mechanism through which the facilities will be operated and maintained after construction is complete;

5. Information on the proposed stormwater management facilities, including (i) detailed narrative on the conversion to a long-term stormwater management facility if the facility was used as a temporary ESC measure; (ii) the type of facilities; (iii) location, including geographic coordinates; (iv) acres treated; and (v) the surface waters or karst features into which the facility will discharge;

6. Hydrologic and hydraulic computations, including runoff characteristics;

7. *Documentation and calculations verifying compliance with the water quality and quantity requirements of these regulations;*
8. *A map of the site that depicts the topography of the site and includes:*
 - i. *All contributing drainage areas;*
 - ii. *Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;*
 - iii. *Soil types, geologic formations if karst features are present in the area, forest cover, and other vegetative areas;*
 - iv. *Current land use including existing structures, roads, and locations of known utilities and easements;*
 - v. *Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;*
 - vi. *The limits of clearing and grading, and the proposed drainage patterns on the site;*
 - vii. *Proposed buildings, roads, parking areas, utilities, and stormwater management facilities; and*
 - viii. *Proposed land use with tabulation of the percentage of surface area to be adapted to various uses, including planned locations of utilities, roads, and easements;*
9. *If an operator intends to meet the requirements established in 9VAC25-875-580 or 9VAC25-875-600 through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included; and*
10. *If the VESMP authority requires payment of a fee with the stormwater management plan submission, the fee and the required fee form in accordance with Section 9-19 of this ordinance must have been submitted.*

C. All final plan elements, specifications, or calculations of the stormwater management plans whose preparation requires a license under Chapter 4 (§ 54.1-400 et seq.) or 22 (§ 54.1-2200 et seq.) of Title 54.1 of the Code of Virginia shall be appropriately signed and sealed by a professional who is licensed to engage in practice in the Commonwealth of Virginia. Nothing in this subsection shall authorize any person to engage in practice outside his area of professional competence.

Section 9-10. POLLUTION PREVENTION PLAN; CONTENTS OF PLAN.

A. A plan for implementing pollution prevention measures during construction activities shall be developed, implemented, and updated as necessary. The pollution prevention plan shall

detail the design, installation, implementation, and maintenance of effective pollution prevention measures as specified in 40 CFR 450.21(d) to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented, and maintained to:

- 1. Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;*
 - 2. Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to stormwater; and*
 - 3. Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.*
- B. The pollution prevention plan shall include effective best management practices to prohibit the following discharges in accordance with 40 CFR 450.21(e):*
- 1. Wastewater from washout of concrete, unless managed by an appropriate control;*
 - 2. Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;*
 - 3. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and*
 - 4. Soaps or solvents used in vehicle and equipment washing.*
- C. Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are prohibited unless managed by appropriate controls in accordance with 40 CFR 450.21(c).*

Section 9-11. EROSION AND SEDIMENT CONTROL PLAN; CONTENTS OF PLAN.

- A. An erosion and sediment control plan, which is a component of the ESM plan, shall be filed for a development and the buildings constructed within, regardless of the phasing of construction. The erosion and sediment control plan shall contain all major conservation decisions to ensure that the entire unit or units of land will be so treated to achieve the conservation objectives in 9VAC25-875-560. The erosion and sediment control plan may include:*
- 1. Appropriate maps;*
 - 2. An appropriate soil and water plan inventory and management information with needed interpretations; and*

3. *A record of decisions contributing to conservation treatment.*

B. *The person responsible for carrying out the plan shall provide the name of an individual holding a certificate who will be in charge of and responsible for carrying out the land-disturbing activity to the VESMP authority. The VESMP authority may waive the Responsible Land Disturber certificate requirement for an agreement in lieu of a plan in accordance with § 62.1-44.15:34 or § 62.1-44.15:55 of the Code of Virginia.*

C. *If individual lots or sections in a residential development are being developed by different property owners, all land-disturbing activities related to the building construction shall be covered by an erosion and sediment control plan or an "Agreement in Lieu of a Plan" signed by the property owner.*

D. *Land-disturbing activity of less than 5,000 square feet on individual lots in a residential development shall not be considered exempt from the provisions of the VESMA if the total land-disturbing activity in the development is equal to or greater than 5,000 square feet.*

Section 9-12. TECHNICAL CRITERIA FOR REGULATED LAND DISTURBING ACTIVITIES.

A. *To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, the City hereby adopts the technical criteria for regulated land-disturbing activities set forth in Part V of 9VAC25-875 expressly to include 9VAC25-875-580 [water quality design criteria requirements]; 9VAC25-875-590 [water quality compliance]; 9VAC25-875- 600 [water quantity]; 9VAC25-875-610 [offsite compliance options]; 9VAC25- 875-620 [design storms and hydrologic methods]; 9VAC25-875-630 [stormwater harvesting]; 9VAC25-875-640 [linear development project]; and, 9VAC25-875- 650 [stormwater management impoundment structures or facilities], which shall apply to all land-disturbing activities regulated pursuant to this ordinance, except as expressly set forth in Subsection B of this Section.*

B. *Any land-disturbing activity shall be considered grandfathered and shall be subject to Article 4 (9VAC25-875-670 et seq) of Part V of the Regulation provided:*

1. *A proffered or conditional zoning plan, zoning with a plan of development, preliminary or final subdivision plat, preliminary or final site plan, or any document determined by the City to be equivalent thereto (i) was approved by the City prior to July 1, 2012, (ii) provided a layout as defined in 9VAC25-875-670, (iii) will comply with the technical criteria of Article 4 of Part V of 9VAC25-875, and (iv) has not been subsequently modified or amended in a manner resulting in an increase in the amount of phosphorus leaving each point of discharge, and such that there is no increase in the volume or rate of runoff;*

2. *A permit has not been issued prior to July 1, 2014; and*

3. *Land disturbance did not commence prior to July 1, 2014.*

C. *Locality, state, and federal projects shall be considered grandfathered by the VESMP authority and shall be subject to the technical criteria of Article 4 of Part V of 9VAC25-875 provided:*

1. *There has been an obligation of locality, state, or federal funding, in whole or in part, prior to July 1, 2012, or the department has approved a stormwater management plan prior to July 1, 2012;*

2. *A permit has not been issued prior to July 1, 2014; and*

3. *Land disturbance did not commence prior to July 1, 2014.*

D. *Land disturbing activities grandfathered under subsections A and B of this section shall remain subject to the technical criteria of Article 4 of Part V of 9VAC25-875 for one additional permit cycle. After such time, portions of the project not under construction shall become subject to any new technical criteria adopted by the board.*

E. *In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012, such project shall be subject to the technical criteria of Article 4 of Part V of 9VAC25-875.*

F. *Nothing in this section shall preclude an operator from constructing to a more stringent standard at his discretion.*

Section 9-13. LONG-TERM MAINTENANCE OF PERMANENT STORMWATER FACILITIES.

A. *The operator shall submit a construction record drawing for permanent stormwater management facilities to the VESMP authority in accordance with 9VAC25-875-535. The record drawing shall contain a statement signed by a professional registered in the Commonwealth of Virginia pursuant to Chapter 4 of Title 54.1 of the Code of Virginia, stating that to the best of their knowledge, the construction record drawing shows all adjustments and revisions to the Stormwater Management Plan made during construction and serve as a permanent record of the actual location of all constructed elements.*

B. *The VESMP authority shall require the provision of long-term responsibility for and maintenance of stormwater management facilities and other techniques specified to manage the quality and quantity of runoff. Such requirements shall be set forth in an instrument recorded in the local land records prior to general permit termination or earlier as required by the VESMP authority and shall at a minimum:*

1. *Be submitted to the VESMP authority for review and approval prior to the approval of the stormwater management plan;*

2. *Be stated to run with the land;*
3. *Provide for all necessary access to the property for purposes of maintenance and regulatory inspections;*
4. *Provide for inspections and maintenance and the submission of inspection and maintenance reports to the VESMP authority; and*
5. *Be enforceable by all appropriate governmental parties.*

C. *At the discretion of the VESMP authority, such recorded instruments need not be required for stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located, provided it is demonstrated to the satisfaction of the VESMP authority that future maintenance for those facilities will be addressed through an enforceable mechanism at the discretion of the VESMP authority.*

D. *If a recorded instrument is not required pursuant to Subsection C., the VESMP authority shall develop a strategy for addressing maintenance of stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located. Such a strategy may include periodic inspections, homeowner outreach and education, or other method targeted at promoting the long-term maintenance of such facilities. Such facilities shall not be subject to the requirement for an inspection to be conducted by the VESMP authority or its duly authorized agent.*

Section 9-14. MONITORING AND INSPECTIONS.

A. *The VESMP authority shall inspect the land-disturbing activity during construction for:*

1. *Compliance with the approved erosion and sediment control plan;*
2. *Compliance with the approved stormwater management plan;*
3. *Development, updating, and implementation of a pollution prevention plan; and*
4. *Development and implementation of any additional control measures necessary to address a TMDL.*

B. *The VESMP authority shall conduct periodic inspections on all projects during construction. The VESMP authority shall either:*

1. *Provide for an inspection during or immediately following initial installation of erosion and sediment controls, at least once in every two-week period, within 48 hours following any runoff producing storm event, and at the completion of the project prior to the release of any performance bonds; or*

2. *Establish an alternative inspection program which ensures compliance with the approved erosion and sediment control plan. Any alternative inspection program shall be:*

i. *Approved by the department prior to implementation;*

ii. *Established in writing;*

iii. *Based on a system of priorities that, at a minimum, address the amount of disturbed project area, site conditions and stage of construction; and*

iv. *Documented by inspection records.*

C. *The VESMP authority shall establish an inspection program that ensures that permanent stormwater management facilities are being adequately maintained as designed after completion of land-disturbing activities. Inspection programs shall:*

1. *Be approved by the department;*

2. *Ensure that each stormwater management facility is inspected by the VESMP authority, or its designee, not to include the owner, except as provided in subsections D and E of this section, at least once every five years; and*

3. *Be documented by records.*

D. *The VESMP authority may utilize the inspection reports of the owner of a stormwater management facility as part of an inspection program established in subsection B of this section if the inspection is conducted by a person who is licensed as a professional engineer, architect, landscape architect, or land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1; a person who works under the direction and oversight of the licensed professional engineer, architect, landscape architect, or land surveyor; or a person who holds an appropriate certificate of competence from the department.*

E. *If a recorded instrument is not required pursuant to 9VAC25-875-130, the VESMP authority shall develop a strategy for addressing maintenance of stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located. Such a strategy may include periodic inspections, homeowner outreach and education, or other method targeted at promoting the long-term maintenance of such facilities. Such facilities shall not be subject to the requirement for an inspection to be conducted by the VESMP authority.*

Section 9-15. HEARINGS.

A. *Any permit applicant or permittee, or person subject to the requirements of this ordinance, aggrieved by any action of the City taken without a formal hearing, or by inaction of the*

City, may demand in writing a formal hearing by the Franklin City Council causing such grievance, provided a petition requesting such hearing is filed with the Administrator within 30 days after notice of such action is given by the Administrator.

- B. The hearings held under this Section shall be conducted by the Franklin City Council at a regular or special meeting of the Franklin City Council, or by at least one member of the Franklin City Council designated by the Franklin City Council to conduct such hearings on behalf of the Franklin City Council at any other time and place authorized by the Franklin City Council.*
- C. A verbatim record of the proceedings of such hearings shall be taken and filed with the Franklin City Council. Depositions may be taken and read as in actions at law.*
- D. The Franklin City Council or its designated member, as the case may be, shall have power to issue subpoenas and subpoenas duces tecum, and at the request of any party shall issue such subpoenas. The failure of a witness without legal excuse to appear or to testify or to produce documents shall be acted upon by the local governing body, or its designated member, whose action may include the procurement of an order of enforcement from the circuit court. Witnesses who are subpoenaed shall receive the same fees and reimbursement for mileage as in civil actions.*

Section 9-16. APPEALS.

Final decisions of the Franklin City Council under this ordinance shall be subject to review by the Southampton County Circuit Court, provided an appeal is filed within 30 days from the date of any written decision of the Franklin City Council under this ordinance.

Section 9-17. RIGHT OF ENTRY.

- A. The VESMP authority or any duly authorized agent thereof may, at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this ordinance.*
- B. In accordance with a performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement, the VESMP authority may also enter any establishment or upon any property, public or private, for the purpose of initiating or maintaining appropriate actions that are required by conditions imposed by the VESMP authority on a land-disturbing activity when an owner, after proper notice, has failed to take acceptable action within the time specified.*

Section 9-18. ENFORCEMENT.

- A. If the VESMP authority determines that there is a failure to comply with the permit conditions or determines there is an unauthorized discharge, notice shall be served upon*

the permittee or person responsible for carrying out the permit conditions by any of the following: verbal warnings and inspection reports, notices of corrective action, consent special orders, and notices to comply. Written notices shall be served by registered or certified mail to the address specified in the permit application or by delivery at the site of the development activities to the agent or employee supervising such activities.

1. The notice shall specify the measures needed to comply with the permit conditions and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, a stop work order may be issued in accordance with Subsection 2 or the permit may be revoked by the Administrator.

2. If a permittee fails to comply with a notice issued in accordance with this Section within the time specified, the VESMP authority may issue an order requiring the owner, permittee, person responsible for carrying out an approved plan, or the person conducting the land-disturbing activities without an approved plan or required permit to cease all land-disturbing activities until the violation of the permit has ceased, or an approved plan and required permits are obtained, and specified corrective measures have been completed.

Such orders shall be issued in accordance with the City of Franklin Community Development Policies and Procedures Manual for Erosion and Stormwater Management. Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the land records of the locality, or by personal delivery by an agent of the Administrator. However, if the VESMP authority finds that any such violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth or otherwise substantially impacting water quality, it may issue, without advance notice or hearing, an emergency order directing such person to cease immediately all land-disturbing activities on the site and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency order. If a person who has been issued an order is not complying with the terms thereof, the VESMP authority may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with Subsection 5.7.C.

B. In addition to any other remedy provided by this Ordinance, if the VESMP authority or his designee determines that there is a failure to comply with the provisions of this Ordinance, they may initiate such informal and/or formal administrative enforcement procedures in a manner that is consistent with the City of Franklin Municipal Code.

C. Any person violating or failing, neglecting, or refusing to obey any rule, regulation, ordinance, order, approved standard or specification, or any permit condition issued by the VESMP authority may be compelled in a proceeding instituted in the Circuit Court of Southampton County by the City to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.

1. *Violations for which a penalty may be imposed under this Subsection shall include but not be limited to the following:*

i. *No state permit registration;*

ii. *No SWPPP;*

iii. *Incomplete SWPPP;*

iv. *SWPPP not available for review;*

v. *No approved erosion and sediment control plan;*

vi. *Failure to install stormwater BMPs or erosion and sediment controls;*

vii. *Stormwater BMPs or erosion and sediment controls improperly installed or maintained;*

viii. *Operational deficiencies;*

ix. *Failure to conduct required inspections;*

x. *Incomplete, improper, or missed inspections; and*

xi. *Discharges not in compliance with the requirements of 9VAC25-880-70.*

2. *The VESMP authority may issue a summons for collection of the civil penalty and the action may be prosecuted in the appropriate court.*

3. *In imposing a civil penalty pursuant to this Subsection, the court may consider the degree of harm caused by the violation and also the economic benefit to the violator from noncompliance.*

4. *Any civil penalties assessed by a court as a result of a summons issued by the City shall be paid into the treasury of the City to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of the locality and abating environmental pollution therein in such manner as the court may, by order, direct.*

D. *Notwithstanding any other civil or equitable remedy provided by this ordinance or by law, any person who willfully or negligently violates any provision of this ordinance, any order of the Administrator, any condition of a permit, or any order of a court shall, be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months or a fine of not less than \$2,500 nor more than \$32,500, or both.*

Section 9-19. FEES.

A. Fees to cover costs associated with implementation of a VESMP related to land disturbing activities and issuance of general permit coverage and VESMP authority permits shall be imposed in accordance with Table 1. Such fee attributes include the costs associated with plan review, VESMP registration statement review, permit issuance, state-coverage verification, inspections, reporting, and compliance activities associated with land-disturbing activities as well as state program oversight costs. When a site or sites has been purchased for development within a previously permitted common plan of development or sale, the applicant shall be subject to fees (“total fee to be paid by applicant” column) in accordance with the disturbed acreage of their site or sites according to Table 1.

Table 1: Fees for permit issuance

Fee Type	Total fee to be paid by applicant (includes both VESMP authority and department portions where applicable)	Department portion of “total fee to be paid by applicant” (based on 28% of total fee paid*)
<i>General / Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre.)</i>	\$290	\$81
<i>General / Stormwater Management - Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 acre and less than 5 Acres)</i>	\$2,700	\$756
<i>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)</i>	\$3,400	\$952
<i>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)</i>	\$4,500	\$1,260
<i>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance</i>	\$6,100	\$1,708

<i>acreage equal to or greater than 50 acres and less than 100 acres)</i>		
<i>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)</i>	\$9,600	\$2,688

** If the project is completely administered by the department such as may be the case for a state or federal project or projects covered by individual permits, the entire applicant fee shall be paid to the department.*

- B. Fees for the modification or transfer of registration statements from the general permit issued by the department shall be imposed in accordance with Table 2. If the general permit modifications result in changes to stormwater management plans that require additional review by the City, such reviews shall be subject to the fees set out in Table 2. The fee assessed shall be based on the total disturbed acreage of the site. In addition to the general permit modification fee, modifications resulting in an increase in total disturbed acreage shall pay the difference in the initial permit fee paid and the permit fee that would have applied for the total disturbed acreage in Table 1.*

Table 2: Fees for the modification or transfer of registration statements for the General Permit for Discharges of Stormwater from Construction Activities

Type of Permit	Fee Amount
<i>General / Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre)</i>	\$20
<i>General / Stormwater Management – Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 and less than 5 acres)</i>	\$200
<i>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)</i>	\$250
<i>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)</i>	\$300
<i>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)</i>	\$450

<i>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)</i>	\$700
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C. The following annual permit maintenance shall be imposed in accordance with Table 3, including fees imposed on expired permits that have been administratively continued. With respect to the general permit, these fees shall apply until the permit coverage is terminated. Fees specified in this Subsection go to the City.

Table 3: Permit Maintenance Fees

Type of Permit	Fee Amount
<i>General / Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre)</i>	\$50
<i>General / Stormwater Management – Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance equal to or greater than 1 acre and less than 5 acres)</i>	\$400
<i>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)</i>	\$500
<i>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)</i>	\$650
<i>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)</i>	\$900
<i>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater 100 acres)</i>	\$1,400

General permit coverage maintenance fees shall be paid annually to the City of Franklin, by the anniversary date of general permit coverage. No permit will be reissued or automatically continued without payment of the required fee. General permit coverage maintenance fees shall be applied until a Notice of Termination is effective.

D. The fees set forth in Subsections A through C of this section, shall apply to:

- 1. All persons seeking coverage under the general permit.*
- 2. All permittees who request modifications to or transfers of their existing registration statement for coverage under a general permit.*

3. *Persons whose coverage under the general permit has been revoked shall apply to the department for an Individual Permit for Discharges of Stormwater from Construction Activities.*

E. *Permit and permit coverage maintenance fees outlined under Section 5.8 may apply to each general permit holder.*

F. *No general permit application fees will be assessed to:*

1. *Permittees who request minor modifications to general permits as defined in Section 1.2 of this ordinance. Permit modifications at the request of the permittee resulting in changes to stormwater management plans that require additional review by the VESMP authority shall not be exempt pursuant to this Section.*

2. *Permittees whose general permits are modified or amended at the initiative of the department, excluding errors in the registration statement identified by the VESMP authority or errors related to the acreage of the site.*

G. *All incomplete payments will be deemed as nonpayments, and the applicant shall be notified of any incomplete payments. Interest may be charged for late payments at the underpayment rate set forth in §58.1-15 of the Code of Virginia and is calculated on a monthly basis at the applicable periodic rate. A 10% late payment fee shall be charged to any delinquent (over 90 days past due) account. The City shall be entitled to all remedies available under the Code of Virginia in collecting any past due amount.*

Section 9-20. Performance Bond.

A. *Prior to issuance of any permit, the applicant shall be required to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the City of Franklin Attorney, to ensure that measures could be taken by the City of Franklin at the applicant's expense should he fail, after proper notice, within the time specified to initiate or maintain appropriate actions which may be required of him by the permit conditions as a result of his land disturbing activity. If the City of Franklin takes such action upon such failure by the applicant, the City of Franklin may collect from the applicant for the difference should the amount of the reasonable cost of such action exceed the amount of the security held, if any. Within 60 days of the completion of the requirements of the permit conditions, such bond, cash escrow, letter of credit or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated.*

Sections 9-21 through 9-23. RESERVED.



Ordinance #2024-14

An Ordinance to Amend Section 29-50

WHEREAS, the City Council of Franklin, Virginia (the “Council”), has the legislative authority to make reasonable changes to the ordinances that govern the orderly growth and development of the City of Franklin; and

WHEREAS, the Council has the authority to regulate grass, weeds, and other foreign growth and shrubs, trees, and other such vegetation.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Franklin, Virginia, that Section 29-50 be amended and reenacted as follows:

§ 29-50 Public nuisance; maximum height.

- (a) Grass, weeds or other foreign growth exceeding 8 inches in height on property located in the City, (except for such on banks of continuously flowing streams, on natural slopes of a vertical angle of 30° or greater and on natural and undisturbed wooded areas), shall constitute a public nuisance endangering the health and safety of City residents. Such a public nuisance shall be unlawful. It shall be the duty of every owner and every occupant of any such parcel of land in the City to provide for the cutting of grass, weeds and other foreign growth on such property so that such grass, weeds or growth does not exceed 8 inches in height.
- (b) It shall be unlawful for the owner of any land, or any occupant or other person who is responsible for the maintenance and upkeep of any land, occupied or vacant, including the area adjoining such property extending to the center line of an abutting alley, to permit overgrown shrubs, trees, and other such vegetation (collectively, for purposes of this section, “overgrowth”) to exist in a manner that is in violation of this section. Overgrowth shall also include, but not be limited to, noxious weeds, vines, ivy, and any other plant material that may inhibit the growth of native vegetation.

(1) Overgrowth shall be unlawful if any one or more of the following applies:

- (i) The overgrowth is abandoned, neglected, or not adequately maintained;
- (ii) The overgrowth has caused the primary improvements on the property to be wholly or substantially screened from view from pedestrians standing at ground level upon any right-of-way abutting any property line;
- (iii) The overgrowth has limited or obstructed the clear vision triangle which is the area formed at the corner intersection of two road right-of-way lines, the two sides of the triangle being twenty-five feet in length along the abutting right-of-way lines and the third line being a line connecting these two sides;
- (iv) The overgrowth obstructs the view of address numerals;

- (v) The overgrowth obstructs access to emergency escape and rescue opening points, as defined by the Virginia Uniform Statewide Building Code, or path of travel from any street to the primary entrance of any primary or accessory structure;
 - (vi) The overgrowth is growing into or on primary or accessory structures in a manner that is detrimental to the structure or has caused damaged to a structure;
 - (vii) The overgrowth constitutes a public health, safety, welfare, or fire hazard;
or
 - (viii) The overgrowth is likely to result in rodent harborage on the property.
- (c) No grass, weeds, foreign growth, shrubs, trees, overgrowth, or other vegetation shall be disposed of in such a manner that violates Virginia Code § 18.2-324.

Certified copy of the ordinance adopted by the City Council at its regular meeting held on this 9th day of September, 2024.

ADOPTED:

Robert Cutchins, Mayor

CERTIFIED:

Clerk to the City Council

Code of Virginia
Title 18.2. Crimes and Offenses Generally
Chapter 7. Crimes Involving Health and Safety
Article 8. Miscellaneous Dangerous Conduct

§ 18.2-324. Throwing or depositing certain substances upon highway; removal of such substances

No person shall throw or deposit or cause to be deposited upon any highway any glass bottle, glass, nail, tack, wire, can, or any other substance likely to injure any person or animal, or damage any vehicle upon such highway, nor shall any person throw or deposit or cause to be deposited upon any highway any soil, sand, mud, gravel or other substances so as to create a hazard to the traveling public. Any person who drops, or permits to be dropped or thrown, upon any highway any destructive, hazardous or injurious material shall immediately remove the same or cause it to be removed. Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle. Any persons violating the provisions of this section shall be guilty of a Class 1 misdemeanor.

This section shall not apply to the use, by a law-enforcement officer while in the discharge of official duties, of any device designed to deflate tires. The Division of Purchase and Supply shall, pursuant to § [2.2-1112](#), set minimum standards for such devices and shall give notice of such standards to law-enforcement offices in the Commonwealth. No such device shall be used which does not meet or exceed the standards.

Code 1950, § 33.1-350; 1970, c. 322; 1975, cc. 14, 15; 1997, c. [136](#).

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.



Ordinance #2024-15

Ordinance to Amend Sections 6-23 and 6-33

WHEREAS, the City Council of Franklin, Virginia, has the legislative authority to make reasonable changes to the ordinances that govern the orderly growth and development of the City of Franklin; and

WHEREAS, the Franklin City Council has the authority to set and modify the provisions of building and building regulations as deemed necessary; and

NOW, THEREFORE, BE IT ORDAINED by the Franklin City Council that Sections 6-23 and 6-33 be amended and reenacted as follows:

§ 6-23. Adoption of Virginia Uniform Statewide Building Code.

- (a) There is in effect in Virginia, and, therefore, also in the City of Franklin, the Virginia Uniform Statewide Building Code (USBC), as it may be amended from time to time by the Virginia Board of Housing and Community Development (VBHCD), for the purpose of establishing rules and regulations for the design, construction, reconstruction, alteration, demolition, conversion, repair, maintenance, use and/or occupancy of buildings and structures and the installation and maintenance of associated equipment, pursuant to Virginia Code, Title 36, Chapter 6, Uniform Statewide Building Code, as amended. There is hereby adopted by reference the 1996 edition of the Virginia Uniform Statewide Building Code and supplements thereto as adopted and promulgated by the State Board of Housing and Community Development. The provisions of such code shall control all matters concerning the construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of all buildings and structures in the City as set forth therein except as otherwise provided in § 6-1 of this chapter. The provisions of such code shall also control all other functions which pertain to the installation of systems vital to all buildings and structures and their service equipment, as defined by such code, and shall apply to existing and proposed buildings and structures in the City.
- (b) Pursuant to authority granted in the Virginia Code, Section 36-105, as amended, it is hereby expressly provided that the property maintenance provisions of the USBC, as they may be amended from time to time, are adopted and in effect in the City of Franklin and, that, in accordance thereto, existing buildings and structures, permanent or temporary, whether occupied or not, and their associated equipment may be inspected after completion of construction to ensure that the buildings and structures are maintained in accordance with USBC regulations. All construction, alteration or repair of buildings or structures, or the installation of plumbing, piping and wiring, mechanical or electrical equipment in or upon such buildings, structures or premises shall be reasonably safe to persons and property and in conformity with the provisions of such code and all orders, rules and regulations issued by authority thereof. Conformity of construction or installations of equipment with regulations set forth in such code shall be prima facie evidence that construction or installations are reasonably safe to persons and property.
- (c) There are in effect in Virginia and, therefore, also in the City of Franklin, the Virginia Amusement Device Regulations, the Virginia Certification Standards, the Virginia Industrialized Building Safety Regulations and the Virginia Manufactured Home Safety Regulations pursuant to the

~~Virginia Code, and as they may be amended from time to time. Pursuant to Code of Virginia, § 1-13.39:2, it is intended that any future amendments of the provisions of the Virginia Uniform Statewide Building Code made applicable within the City by this article shall be deemed to be incorporated into this article on the effective date of such amendments.~~

- (d) Nothing in this Chapter shall be held to preclude compliance with any zoning, health, safety sanitation or other provisions of the Code heretofore or hereafter adopted.

§ 6-33. Enforcement.

- (a) Whoever violates any provisions of this Chapter, by doing a prohibited act, or failing to perform a required act, or failing to perform permitted acts in the prescribed manner shall be subject to the penalties as specified in the Code of Virginia and the USBC.
- (b) Criminal. Unless designated otherwise in this Article, violations of this Chapter are misdemeanors and, upon conviction, may be punished by a fine or incarceration of not more than that amount or period authorized for violations by the Code of Virginia, as applicable.
- (c) Civil.
- (1) There are hereby established civil penalties for any violation of the provisions of Part I of the USBC, known as the Virginia Construction Code, and Part III of the USBC, known as the Virginia Maintenance Code, (collectively, the Code). Upon failure to abate or remedy pursuant to a notice of violation, the Building Official (with respect to the Virginia Construction Code), Property Maintenance Code Official (with respect to the Virginia Maintenance Code), or their designee may issue a civil summons to any person in violation of any of the provisions of the Code as enumerated herein. The penalty for any one violation shall be a civil penalty of not more than \$100 for the initial summons, and not more than \$350 for each additional summons. Each day during which the violation is found to have existed shall constitute a separate offense. However, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any ten-day period, and a series of specified violations arising from the same operative set of facts shall not result in civil penalties which exceed a total of \$4,000.
- (2) Any person summoned for a scheduled violation may make an appearance in person or in writing by mail to the Department of Finance prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Such person shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court. As a condition of waiver of trial, admission of liability, and payment of a civil penalty, the violator and a representative of the locality shall agree in writing to terms of abatement or remediation of the violation within six months after the date of payment of the civil penalty.
- (3) If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the General District Court in the same manner and with the same right of appeal as provided for by law. In any trial for a scheduled violation authorized by this section, it shall be the burden of the locality to show the liability of the violator by a preponderance of the evidence. An admission of liability or finding of liability shall not be a criminal conviction for any purpose.

- (4) If the violation concerns a residential unit, and if the violation remains uncorrected at the time of assessment of the civil penalty, the court shall order the violator to abate, or otherwise remedy through hazard control, the violation in order to comply with the Code. Except as otherwise provided by the court for good cause shown, any such violator shall abate, or otherwise remedy through hazard control, the violation within six months of the date of the assessment of the civil penalty.
- (5) If the violation concerns a nonresidential building or structure, and if the violation remains uncorrected at the time of assessment of the civil penalty, the court may order the violator to abate, or otherwise remedy through hazard control, the violation in order to comply with the Code. Any such violator so ordered shall abate, or otherwise remedy through hazard control, the violation within the time specified by the court.
- (6) The remedies provided for in this Section are cumulative and not exclusive and shall be in addition to any other remedies provided by law.

Certified copy of the ordinance adopted by the City Council at its regular meeting held on this 9th day of September, 2024.

ADOPTED:

Robert Cutchins, Mayor

CERTIFIED:

Clerk to the City Council