

AGENDA

Norton City Council

December 3, 2013

6:00 P.M.

1. Roll Call
2. Invocation – Rev. Ken Taylor
3. Pledge of Allegiance
4. Approval of Minutes
 1. Regular Meeting of November 19, 2013
5. Audience for Visitors
6. Old Business
 - A. Discussion of Water Reserves.
7. New Business
 - A. Presentation by Dr. Scott Hamilton of Mountain Empire Community College.
 - B. Update on the Required Stormwater Management Ordinance.
 - C. Update on Proposed Pump and Haul Ordinance.
 - D. Confirmation of a Check(s)/Transfer(s) in Excess of \$100,000.

E. Closed Meeting to Discuss Personnel as Per Section 2.2-3711 (A)
(1) of the Code of Virginia, as Amended.

1. Appointment to the Southwest Virginia Regional Jail Authority for a Four (4) Year Term; Currently Carlos Noaks Whose Term Ends 12/31/2013.

To 12/31/2017

2. Appointment to the Southwest Virginia Health Advisory Authority for a Four (4) Year Term; Currently Cheryl Roop Whose Term Ends 12/31/2013.

To 12/31/2017

8. Comments by the City Manager, City Attorney, and City Council.
9. Adjournment.

The regularly scheduled meeting of the Norton City Council was held on Tuesday, November 19, 2013 at 6:00 p.m. in the Municipal Council Chambers with Mayor William Mays presiding.

Present: Mark Caruso, William Mays, Joseph Fawbush, and Terry Roop

Absent: Joseph Hunnicutt

Also Present: Fred L. Ramey, Jr., City Manager and Bill Bradshaw, City Attorney

The invocation was given by Rev. John Ellington followed by the pledge of allegiance led by Councilman Mark Caruso.

Upon a motion by Councilman Roop, seconded by Councilman Fawbush, and passed by unanimous vote, Council moved to adopt the minutes of the October 29, 2013 meeting as presented.

25962

During the Mayor's audience for visitors, Mr. Michael Hunt, 1230 Chapman Street, S. W. spoke briefly to Council regarding a logging operation on this street within 100' of his property. He advised there are at least 30 children that play on this street and there are log trucks traveling this road. He advised he had talked with Winfred Collins, the City's Building Official, and had been advised by him that there were no zoning laws against this; however the City can monitor the area of soil and erosion. Mr. Hunt advised this diminishes the street, causes erosion problems, and affects property values. He then showed Council members pictures he had taken on his cell phone. He asked Council to pass an ordinance that would prohibit others from having to experience this type of operation in a residential area.

25963

Following a brief discussion, Mayor Mays asked Police Chief Lane to have this area patrolled due to the safety concerns and the City Attorney advised he would look at the current zoning ordinance to see if something can be done other than monitoring soil and erosion. The City Manager was asked to monitor this situation also.

Mayor Mays thanked Mr. Hunt for bringing this to Council's attention.

Mr. Ramey advised that as of today we have a total combined capacity in our reservoirs of 71.8 million gallons which is above average for this time of the year. In November, the City had a total rainfall of 1.9 inches and is not purchasing any water. This will continue to be an agenda item to keep Council informed.

25964

Mr. Wally Smith, Assistant Professor of Biology at UVA-Wise and a member of the Steering Committee of the Clinch River Valley Initiative, was present to thank Council for their support and give them a brief update of the accomplishments of the past year, some history of the organization that began in 2010, and their goals.

Following Mr. Smith's presentation, Mr. Todd Christensen spoke briefly on information given in a handout to Council members. After recognizing Buzz Witt, who was present at tonight's meeting and a member of his organization, he spoke of the

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progress his organization has made and advised they were hopeful to obtain a Clinch River State Park.

Following his presentation, Mr. Christensen answered questions from Council members.

Mayor Mays and members of Council thanked both Mr. Christensen and Mr. Smith for the job they are doing to promote tourism in our area.

Mr. Ramey advised that representatives of Norton Community Hospital were present to advise Council of the work being done on the 15th Street entrance to the hospital. He advised that a portion of this street is a City street for which the City receives VDOT funding and the City maintains this section of the road. The remainder of the street was developed by and is maintained by the hospital.

Mr. Mark Leonard, CEO of Norton Community Hospital, recognized Robert Leonard, Treasurer and member of the NCH Board of Directors, Freddie Mullins, General Counsel for NCH, and Bill Holden, Vice President of Facility and Construction Management for Mountain States.

25966

Mr. Leonard advised that approximately one year ago the road began cracking and bowing. They began working with a geo-technical engineering group whose findings were that there was nothing conclusive. They then dug out a portion of the road, excavated down, and the conclusion was made by the geo-tech engineers that this was not caused by water. The problem had been there all along and the accelerated slippage and damage was caused by the new location of the helicopter pad and traffic.

Using a PowerPoint presentation, Mr. Leonard advised they plan to build the road back using 8,000 yards of dirt w/rock solidifying the road bed, then applying the asphalt and curbing. This should take a couple of weeks and be completed around the first of December.

Councilman Roop expressed his appreciation to Mr. Leonard and the hospital for the repairs to this road and advised that Norton Community Hospital had been a great partner to the City.

The City Manager advised that the new street, when completed, would still not meet VDOT specifications, but the road will be in better shape than it was previously.

Mr. Leonard then gave Council an update on the Medical Mall that will be built in the old Magic Mart Shopping Center. He advised that Building A renovations will start in December and should be turned over to them by February of 2015 and advised of the offices that will be moving there.

25967

Building B will require demolition and construction and will begin in spring of 2014 and take 18 months to finish.

They will demolish 25,000-30,000 square feet and a greenway will be placed there opening up access to the hospital.

Mr. Leonard advised he will be glad to answer any questions from Council.

Mayor Mays asked about the helicopter service and was advised by Mr. Leonard that they are still talking with Wings Air Rescue regarding increasing their presence here.

Mayor Mays thanked Mr. Leonard for both updates and also for being such a good partner with the City.

In their packets, Council had been presented with a memorandum from the Commissioner of Revenue regarding an erroneously assessed 2013 personal property tax for Mr. John Asbury, Jr. in the amount of \$32.14.

Upon a motion by Councilman Caruso, seconded by Councilman Fawbush, and passed by unanimous roll call vote, Council moved to approve a refund to Mr. John Asbury, Jr. in the amount of \$32.14 covering erroneously assessed 2013 personal property tax.

25968

Council had a copy of a transfer to the Norton City Schools in the amount of \$250,000 to cover October fringes.

Upon a motion by Councilman Fawbush, seconded by Councilman Caruso, and passed by unanimous roll call vote, Council moved to confirm the transfer to the Norton City Schools in the amount of \$250,000. (Councilman Roop's Disclosure Form)

25969

Upon a motion by Councilman Caruso, seconded by Councilman Roop, and passed by unanimous roll call vote, Council moved to go into closed meeting to discuss personnel as per Section No. 2.2-3711 (A) (1) of the Code of Virginia, as amended.

25970

Mayor Mays declared Council in closed meeting.

Upon a motion by Councilman Caruso, seconded by Councilman Fawbush, and passed by unanimous vote, Council moved to go back into open meeting.

25971

Mayor Mays declared Council back in open meeting.

The Clerk polled each member of Council as to the Certification of Closed Meeting with each answering yes.

The Clerk then read A Resolution of the Certification of Closed Meeting. Upon a motion by Councilman Caruso, seconded by Councilman Fawbush, and passed by the following unanimous vote: YES – Caruso, Fawbush, Roop, Mays, NO – None, ABSENT – Hunnicutt, Council moved to adopt A Resolution of the Certification of Closed Meeting. (Insert)

25972

Mayor Mays opened the floor for nominations to the Building Code Board of Appeals for an unexpired term to expire on February 18, 2015.

Councilman Fawbush nominated Steven McElroy.

25973

Upon a motion by Councilman Caruso, seconded by Councilman Roop, and passed by unanimous vote, Council moved that the nominations cease.

Mayor Mays declared Steven McElroy appointed to an unexpired term on the Building Code Board of Appeals which will expire on February 18, 2015.

Mayor Mays opened the floor for nominations of a student representative to the Wise County/City of Norton Youth Services Board for an unexpired term which will expire on July 1, 2014.

Councilman Roop nominated Megan Steffey.

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Upon a motion by Councilman Caruso, seconded by Councilman Fawbush, and passed by unanimous vote, Council moved that the nominations cease.

Mayor Mays declared Megan Steffey appointed to the Wise County/City of Norton Youth Services Board as a student representative for an unexpired term which will expire on July 1, 2014.

In comments from the City Manager, Mr. Ramey advised that:

The City expects to receive a positive review of the Safe Route To Schools Project bids from VDOT later this week and unless Council deems otherwise, the City Administration will move forward with all contract and other associated documents once they are approved by the City Attorney.

The Regional Legislative Reception will be held in Richmond on January 16th at the Omni. Any Council member who would like to attend should advise him as soon as possible so that he can make reservations.

He had provided tonight to City Council the October Retail Sales Tax Report.

The Christmas Parade is scheduled for Sunday, December 1st at 6:00 p.m. with the Christmas Tree Lighting planned for 5:00 p.m.

City Offices will be closing at Noon on Wednesday, November 27th and be closed Thursday, November 28th and Friday, November 29th for the Thanksgiving holiday.

On behalf of the entire City staff, he extended to our citizens and Council a safe and happy Thanksgiving holiday and reminded everyone to shop locally this holiday season.

In comments from the City Attorney, Mr. Bradshaw advised that he has run into an obstacle on a property in the current tax sale. Following a brief discussion, he advised Council that the best way to proceed is to dismiss the suit and then commence a new one.

In comments from City Council, Councilman Roop advised that he commended the City Attorney for his handling of the tax sales. After noticing one dilapidated property had been torn down, he advised that he wants the City to be much more aggressive on this.

Mr. Ramey advised the next step to being more aggressive is for the City to tear down these properties and put a lien against them. He further advised that this would require funding but this would be a good tool to put in the upcoming budget process. Following questions from Council, the City Attorney advised this would be cost effective.

Councilman Caruso advised he would miss the next meeting and this should be the last he will miss due to the class he is taking. He extended his thanks to Council for their patience in his absence.

Mayor Mays extended congratulations to the J. I. Burton Football Team, coaches, and others for qualifying to play in the second round of the State Play-offs

Councilman Roop stated that small school determination works as the academic team deserves congratulations also.

Mayor Mays extended best wishes to all for a happy Thanksgiving.

There being no further business to come before the Council, the meeting was adjourned.

CITY OF NORTON, VIRGINIA

William J. Mays, Mayor

ATTEST:

Clerk



City of Norton
Water Treatment Plant
619 High Knob Road
P.O. Box 618
Norton, Virginia 24273-0618



6-A

OFFICE OF WATER TREATMENT
SUPERINTENDENT
(276) 679-1205
Fax: (276) 679-3510
E-Mail: andrewg@nortonva.gov

To: Fred L. Ramey, Jr., City Manager
From: Andrew Greear, Water Treatment Superintendent
Date: 11-25-13

Upper Lake:
44.3 Million Gallons

Lower Lake:
26.8 Million Gallons

TOTAL:
71.1 Million Gallons

Precip:
November to date: 2.13 inches

Thanks.

17-A

Inter-Office Memo



To: Mayor and City Council
From: Fred L. Ramey, Jr., City Manager **FR**
CC:
Date: November 24, 2013
Re: Update on Mountain Empire Community College

At our December 3rd Council meeting, Dr. Scott Hamilton President of the Mountain Empire Community College will provide an update on the College.
Thank You.

7-B

Inter-Office Memo



To: Mayor and City Council
From: Fred L. Ramey, Jr., City Manager **FR**
CC:
Date: November 26, 2013
Re: Update on Stormwater Management Ordinance

I have asked our Building and Zoning Administrator Winfred Collins to brief City Council on our efforts to meet the state guidelines for Stormwater Management that take effect in July 2014. Please find included with your packet a draft copy of the City's Stormwater Management Ordinance that has been submitted to the state for review. In addition, you will also find copies of the draft Funding and Staffing Plan, a Policies and Procedures document, and a draft Fee Schedule.

Thank You.

Pursuant to State Code Section 62.1-44.15:27, this ordinance is adopted as part of an initiative to integrate the City of Norton's stormwater management requirements with the City of Norton's erosion and sediment control program, and the flood plain management program of the City of Norton, (Chapter 26.1 of Norton City Code) requirements into a unified stormwater program. The unified stormwater program is intended to facilitate the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities into a more convenient and efficient manner for both the City of Norton and those responsible for compliance with these programs.

~~Sec. 7-1. Title, purpose, and authority.~~

~~This chapter shall be known as the "Erosion and Sediment Control Ordinance of City of Norton." The purpose of this chapter is to prevent degradation of properties, stream channels, waters and other natural resources of the County of Wise by establishing requirements for the control of soil erosion, sediment deposition and nonagricultural runoff and by establishing procedures whereby these requirements shall be administered and enforced.~~

~~This chapter is authorized by the Code of Virginia, Title 10.1, Chapter 5, Article 4 (Section 10.1-560 et seq.), known as the Virginia Erosion and Sediment Control Law.~~

Sec. 7-1. PURPOSE AND AUTHORITY.

- (a) The purpose of this Ordinance is to ensure the general health, safety, and welfare of the citizens of the City of Norton and protect the quality and quantity of state waters from the potential harm of unmanaged stormwater, 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.
- (b) This ordinance is adopted pursuant to Articles 1-1 (§ 10.1-603.2 et seq.) of Chapter 6 of Title 10.1 2.3 & 2.4 (§ 62.1-44.15:24, § 62.1-44.15:51 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.

Sec. 7-2. – Definitions.

In addition to the definitions set forth in 4VAC50-60-10 9VAC25-840-10 and 9VAC25-870-10 of the Virginia Stormwater Management Regulations and Virginia Erosion and Sediment Control Regulations, as amended, which are expressly adopted and incorporated herein by reference, the following words and terms used in this Ordinance have the following meanings unless otherwise specified herein. Where definitions differ, those incorporated herein shall have precedence.

~~As used in the chapter, unless the context requires a different meaning:~~

Administrator means the VSMP authority including the City of Norton staff person or department responsible for administering the VSMP on behalf of the City of Norton.

Agreement in lieu of a plan means a contract between the plan-approving authority and the owner that specifies conservation measures that must be implemented in the construction of a single-family residence; this contract may be executed by the plan-approving authority in lieu of a formal site plan.

~~Applicant~~ means ~~any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.~~

Applicant means any person submitting an application for a permit or requesting issuance of a permit under this Ordinance.

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

~~Board~~ means the ~~Virginia Soil and Water Conservation Board.~~ (See "State Board")

Certified inspector means an employee or agent of a program authority who (i) holds a certificate of competence from the board in the area of project inspection or (ii) is enrolled in the board's training program for project inspection and successfully completes such program within one (1) year after enrollment.

Certified plan reviewer means an employee or agent of a program authority who (i) holds a certificate of competence from the board in the area of plan review, (ii) is enrolled in the board's training program for plan review and successfully completes such program within one (1) year after enrollment, or (iii) is licensed as a professional engineer,

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architect, certified landscape architect or land surveyor pursuant to Article 1 (Section 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.

Certified program administrator means an employee or agent of a program authority who (i) holds a certificate of competence from the board in the area of program administration or (ii) is enrolled in the board's training program for program administration and successfully completes such program within one (1) year after enrollment.

City means City of Norton.

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

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

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

Clean Water Act or CWA means the federal Clean Water Act (33 U.S.C. §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.

~~*Department* means the Department of conservation and recreation-~~*Environmental Quality.*

~~*Development* means a tract of land developed or to be developed as a single unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three (3) or more residential dwelling units.~~

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 non-agricultural or non-silvicultural purposes.

~~*Director* means the Director of the Virginia Department of conservation and recreation-~~*Environmental Quality.*

Ecologically sensitive area means an area that is located near rivers, streams, wetlands or bodies of water.

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Erosion and sediment control plan or 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 and all information deemed necessary by the plan approving authority to assure 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 not associated with current land-disturbing activity but 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 ten thousand (10,000) square feet or less used for residential purposes.

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

Filling means any depositing or stockpiling of earth materials.

General permit means the state permit titled GENERAL PERMIT FOR DISCHARGES OF STORMWATER FROM CONSTRUCTION ACTIVITIES found in 9VAC25-880 et seq. of the Regulations authorizing a category of discharges under the CWA and the Act within a geographical area of the Commonwealth of Virginia.

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

~~*Land-disturbing activity* means any land change which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the Commonwealth, including, but not limited to, clearing, grading, excavating, transporting and filling of land, except that the term shall not include:~~

Land disturbance or land-disturbing activity means a man-made change to the land surface that potentially changes its runoff characteristics including clearing, grading, or excavation except that the term shall not include those the following exceptions:

- (1) Minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;
- (2) Individual service connections;
- (3) Installation, maintenance, or repair of any underground public utility lines 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 which is hard-surfaced;

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- (4) Septic tank lines or drainage fields 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) Surface or deep mining;
- (6) Exploration or drilling for oil and gas including the well site, roads, feeder lines, and off-site disposal areas;
- (7) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations; including engineering operations and agricultural engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the Dam Safety Act, Article 2, (Section 10.1-604 et seq.) of Chapter 6 of the Code of Virginia, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; 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 (Section 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 Section 10.1-1163;
- (8) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;
- (9) Disturbed land areas of less than ten thousand (10,000) square feet in size.
- (10) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
- (11) 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 this chapter; and

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- (12) Emergency work to protect life, limb or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the plan-approving authority.

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

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

Local erosion and sediment control program or *local control program* means an outline of the various methods employed by the City of Norton to regulate land-disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program and may include such items as local ordinances, policies and guidelines, technical materials, inspection, enforcement, and evaluation.

Minor modification means an amendment to an existing general permit before its expiration not requiring extensive review and evaluation including, but not limited to, 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 general permit modification or amendment does not substantially alter general 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

Operator means the owner or operator of any facility or activity subject to regulation under this Ordinance.

Owner means the owner or owners of the freehold of the premises or lesser estate therein, a 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 given storm condition at a particular location.

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Permit or VSMP Authority Permit means an approval to conduct a land-disturbing activity issued by the Administrator for the initiation of a land-disturbing activity, in accordance with this Ordinance, and which may only be issued after evidence of general permit coverage has been provided by the Department.

Permittee means the person to whom the permit authorizing land-disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed and the person to whom the VSMP Authority 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, any interstate body, or any other legal entity.

Plan-approving authority means the erosion and sediment control program administrator responsible for determining the adequacy of a plan submitted for land-disturbing activities on a unit or units of lands and for approving plans.

Program authority means the City of Norton which has adopted a soil erosion and sediment control program that has been approved by the board.

Regulations means the Virginia Stormwater Management Program (VSMP) Permit Regulations, ~~4-VAC-50-60~~ 9VAC25-870, as amended.

Responsible land disturber means an individual from the project or development team, who will be in charge of and responsible for carrying out a land-disturbing activity covered by an approved plan or agreement in lieu of a plan, who (i) holds a responsible land disturber certificate of competence, (ii) holds a current certificate of competence from the board in the areas of combined administration, program administration, inspection, or plan review, (iii) holds a current contractor certificate of competence for erosion and sediment control, or (iv) is licensed in Virginia as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (Section 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.

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

Single-family residence means a noncommercial dwelling that is occupied exclusively by one (1) 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.

State means the Commonwealth of Virginia.

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State Board means the State Water Control Board.

State erosion and sediment control program or state program means the program administered by the Virginia Soil and Water Conservation Board pursuant to the Code of Virginia including regulations designed to minimize erosion and sedimentation.

State permit means an approval to conduct a land-disturbing activity issued by the State Board in the form of a state stormwater individual permit or coverage issued under a state general permit or an approval issued by the State Board for stormwater discharges from an MS4. Under these state permits, the Commonwealth imposes and enforces requirements pursuant to the federal Clean Water Act and regulations, the Virginia Stormwater Management Act and the Regulations.

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 waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.

Stormwater 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 management plan means a document(s) containing material describing methods for complying with the requirements of Section 7-14 of this Ordinance.

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 from the construction site, and otherwise meets the requirements of this Ordinance. In addition the document shall identify and require the implementation of control measures, and shall include, but not be limited to the inclusion of, or the incorporation by reference of, an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan.

Subdivision means the same as defined in Appendix A of Norton City Code.

Total maximum daily load or TMDL means the sum of the individual wasteload allocations for point sources, load allocations 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.

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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.

Virginia Stormwater Management Act or Act means Article 2.3 (§62.1-44.15.24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.

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

Virginia Stormwater Management Program or VSMP means a program approved by the State Board after September 13, 2011, that has been established by a locality to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in this article, and evaluation consistent with the requirements of this article and associated regulations.

Virginia Stormwater Management Program authority or VSMP authority means an authority approved by the State Board after September 13, 2011, to operate a Virginia Stormwater Management Program.

Water quality volume means the volume equal to the first one-half inch of runoff multiplied by the impervious surface of the land development project.

Sec. 7-3. - Local erosion and sediment control program.

- (a) Pursuant to Section ~~40-1-562~~ 62.1-44.15:54 of the Code of Virginia, the City of Norton hereby adopts the regulations, references, guidelines, standards and specifications promulgated by the board for the effective control of soil erosion and sediment deposition to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources. Said regulations, references, guidelines, standards and specifications for erosion and sediment control are included in but not limited to the "Virginia Erosion and Sediment Control Regulations" and the Virginia Erosion and Sediment Control Handbook, as amended.
- (b) Before adopting or revising regulations, the City of Norton shall give due notice and conduct a public hearing on the proposed or revised regulations, except that a public hearing shall not be required when the City of Norton is amending its program to conform to revisions in the state program. However, a public hearing shall be held if the City of Norton proposes or revises regulations that are more

stringent than the state program. In addition, in accordance with Section ~~10.1-561.1~~ 62.1-44.15:52 of the Code of Virginia, stream restoration and relocation projects that incorporate natural channel design concepts are not manmade channels and shall be exempt from any flow rate capacity and velocity requirements for natural or manmade channels.

In accordance with Section ~~10.1-561.1~~ 62.1-44.15:52 of the Code of Virginia, any land-disturbing activity that provides for stormwater management intended to address any flow rate capacity and velocity requirements for natural or manmade channels shall satisfy the flow rate capacity and velocity requirements for natural or manmade channels if the practices are designed to (i) detain the water quality volume and to release it over forty-eight (48) hours; (ii) detain and release over a twenty-four-hour period the expected rainfall resulting from the one (1) year, 24-hour storm; and (iii) reduce the allowable peak flow rate resulting from the 1.5-, 2-, and 10-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was in a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition, and shall be exempt from any flow rate capacity and velocity requirements for natural or manmade channels.

- (c) Pursuant to Section ~~10.1-561.1~~ 62.1-44.15:53 of the Code of Virginia, an erosion control plan shall not be approved until it is reviewed by a certified plan reviewer. Inspections of land-disturbing activities shall be conducted by a certified inspector. The Erosion Control Program of the City of Norton shall contain a certified program administrator, a certified plan reviewer, and a certified inspector, who may be the same person.
- (d) The City of Norton hereby designates the building official as the plan-approving authority.
- (e) The program and regulations provided for in this chapter shall be made available for public inspection at the office of the building official.

Sec. 7-4. - Submission and approval of plans; contents of plans.

- (a) Except as provided herein, no person may engage in any land-disturbing activity until he or she has submitted to the erosion and sediment control program administrator for the City of Norton an erosion and sediment control plan for the land-disturbing activity and such plan has been approved by the plan-approving authority. Where land-disturbing activities involve lands under the jurisdiction of

more than one (1) local control program, an erosion and sediment control plan, at the option of the applicant, may be submitted to the board for review and approval rather than to each jurisdiction concerned. Where the land-disturbing activity results from the construction of a single-family residence, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the plan-approving authority.

- (b) The standards contained within the "Virginia Erosion and Sediment Control Regulations," the Virginia Erosion and Sediment Control Handbook as amended and [any local handbook or publication] are to be used by the applicant when making a submittal under the provisions of this chapter and in the preparation of an erosion and sediment control plan. The plan-approving authority, in considering the adequacy of a submitted plan, shall be guided by the same standards, regulations and guidelines. When the standards vary between the publications, the state regulations shall take precedence.
- (c) The plan-approving authority shall review conservation plans submitted to it and grant written approval within forty-five (45) days of the receipt of the plan if it determines that the plan meets the requirements of the board's regulations and if the person responsible for carrying out the plan certifies that he will properly perform the conservation measures included in the plan and will conform to the provisions of this article. In addition, as a prerequisite to engaging in the land-disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of an individual holding a certificate of competence, to the program authority, as provided by Section ~~40.1-564~~ 62.1-44.15:52, of the Virginia Erosion and Sediment Control Law, who will be in charge of and responsible for carrying out the land-disturbing activity. Failure to provide the name of an individual holding a certificate of competence prior to engaging in land-disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in this chapter.

However, the plan-approving authority may waive the certificate of competence requirement for an agreement in lieu of a plan for construction of a single family residence. If a violation occurs during the land-disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of an individual holding a certificate of competence, as provided by Section ~~40.1-564~~ 62.1-44.15:52 of the Virginia Erosion and Sediment Control Law. Failure to provide the name of an individual holding a certificate of competence shall be a violation of this chapter.

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- (d) The plan shall be acted upon within forty-five (45) days from receipt thereof by either approving said plan in writing or by disapproving said plan in writing and giving specific reasons for its disapproval.

When the plan is determined to be inadequate, the plan-approving authority shall specify such modifications, terms and conditions that will permit approval of the plan. If no action is taken within forty-five (45) days, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.

- (e) An approved plan may be changed by the plan-approving authority when:

- (1) The inspection reveals that the plan is inadequate to satisfy applicable regulations; or
- (2) The person responsible for carrying out the plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this chapter, are agreed to by the plan-approving authority and the person responsible for carrying out the plans.

- (f) Variances: The plan-approving authority may waive or modify any of the standards that are deemed to be too restrictive for site conditions, by granting a variance. A variance may be granted under these conditions:

- (1) At the time of plan submission, an applicant may request a variance to become part of the approved erosion and sediment control plan. The applicant shall explain the reasons for requesting variances in writing. Specific variances which are allowed by the plan-approving authority shall be documented in the plan.
- (2) During construction, the person responsible for implementing the approved plan may request a variance in writing from the plan-approving authority. The plan-approving authority shall respond in writing either approving or disapproving such a request. If the plan-approving authority does not approve a variance within ten (10) days of receipt of the request, the request shall be considered to be disapproved. Following disapproval, the applicant may resubmit a variance request with additional documentation.

- (g) In order to prevent further erosion, the City of Norton may require approval of a plan for any land identified in the local program as an erosion impact area.

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- (h) When land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.
- (i) In accordance with the procedure set forth by Section ~~10.1-563(E)~~ 62.1-44.15:55(E) of the Code of Virginia, any person engaging, in more than one jurisdiction, in the creation and operation of wetland mitigation or stream restoration banks, which have been approved and are operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of wetlands mitigation or stream restoration banks, pursuant to a mitigation banking instrument signed by the Department of Environmental Quality, the Marine Resources Commission, or the U.S. Army Corps of Engineers, may, at the option of that person, file general erosion and sediment control specifications for wetland mitigation or stream restoration banks annually with the board for review and approval consistent with guidelines established by the board.
- (j) State agency projects are exempt from the provisions of this chapter except as provided for in the Code of Virginia, Section ~~10.1-564~~ 62.1-44.15:56.

Sec. 7-5. - Monitoring, reports, and inspections.

- (a) The City of Norton may require the person responsible for carrying out the plan to monitor the land-disturbing activity. The person responsible for carrying out the plan will maintain records of these inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation.
- (b) The building official shall periodically inspect the land-disturbing activity in accordance with Section ~~4VAC50-30-60~~ 9VAC25-840-60 of the Virginia Erosion and Sediment Control Regulations to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection.

If the building official determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by registered or certified mail to the address specified in the permit application or in the plan certification, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities.

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The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the specified time, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this chapter and shall be subject to the penalties provided by this chapter.

- (c) Upon determination of a violation of this chapter, the erosion and sediment control program administrator may, in conjunction with or subsequent to a notice to comply as specified in this chapter, issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken.

If land-disturbing activities have commenced without an approved plan, the erosion and sediment control program administrator may, in conjunction with or subsequent to a notice to comply as specified in this chapter, issue an order requiring that all of the land-disturbing activities be stopped until an approved plan or any required permits are obtained.

Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the commonwealth, or where the land-disturbing activities have commenced without an approved plan or any required permits, such an order may be issued without regard to whether the permittee has been issued a notice to comply as specified in this chapter. Otherwise, such an order may be issued only after the permittee has failed to comply with such a notice to comply.

The order shall be served in the same manner as a notice to comply, and shall remain in effect for a period of seven (7) days from the date of service pending application by the enforcing authority or permit holder for appropriate relief to the Circuit Court of Wise County.

If the alleged violator has not obtained an approved plan or any required permits within seven (7) days from the date of service of the order, the erosion and sediment control program administrator may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan and any required permits have been obtained. Such an order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of the City of Norton.

The owner may appeal the issuance of an order to the Circuit Court of Wise County.

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Any person violating or failing, neglecting or refusing to obey an order issued by the erosion and sediment control program administrator may be compelled in a proceeding instituted in the Circuit Court of Wise County to obey same and to comply therewith by injunction, mandamus or other appropriate remedy. Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted.

Nothing in this section shall prevent the erosion and sediment control program administrator from taking any other action authorized by this chapter.

Sec. 7-6. - STORMWATER PERMIT REQUIREMENT; EXEMPTIONS.

- (a) Except as provided herein, no person may engage in any land-disturbing activity until a VSMP authority permit has been issued by the Administrator in accordance with the provisions of this Ordinance.
- (b) Notwithstanding any other provisions of this Ordinance, the following activities are exempt, unless otherwise required by federal law:
 - (1) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia;
 - (2) Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the State Board in regulations, including engineering operations as follows: 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; 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 Title 10.1 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 Article 9 of Chapter 11 of Title 10.1 of the Code of Virginia;
 - (3) Single-family residences separately built and disturbing less than one acre and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures;
 - (4) Land disturbing activities that disturb less than one acre of land area, that are not part of a larger common plan of development or sale that is one acre or greater of disturbance;
 - (5) Discharges to a sanitary sewer or a combined sewer system;
 - (6) Activities under a State or federal reclamation program to return an abandoned property to an agricultural or open land use;

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- (7) 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
- (8) Conducting 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 Administrator 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.

**Sec. 7-7. - STORMWATER MANAGEMENT PROGRAM ESTABLISHED;
SUBMISSION AND APPROVAL OF PLANS; PROHIBITIONS.**

- (a) Pursuant to § 62.1-44.15:27 of the Code of Virginia, the City of Norton hereby establishes a Virginia stormwater management program for land-disturbing activities and adopts the applicable Regulations that specify standards and specifications for VSMPs promulgated by the State Board for the purposes set out in Section 7-1 of this Ordinance. The City of Norton hereby designates the Building Official as the Administrator of the Virginia stormwater management program.
- (b) No VSMP authority permit shall be issued by the Administrator, until the following items have been submitted to and approved by the Administrator as prescribed herein:
 - (1) A permit application that includes a general permit registration statement;
 - (2) An erosion and sediment control plan approved in accordance with Section 7-4 of this Ordinance;
 - (3) A stormwater management plan that meets the requirements of Section 7-8 of this Ordinance.
- (c) No VSMP authority permit shall be issued until evidence of general permit coverage is obtained.
- (d) No VSMP authority permit shall be issued until the fees required to be paid pursuant to Section 7-19, are received and a reasonable performance bond required pursuant to Section 7-20 of this Ordinance has been submitted.
- (e) No VSMP authority permit shall be issued unless and until the permit application and attendant materials and supporting documentation demonstrate that all land clearing, construction, disturbance, land development and drainage will be done according to the approved permit.
- (f) No grading, building or other local permit shall be issued for a property unless a VSMP authority permit has been issued by the Administrator.

Sec. 7-8. - STORMWATER POLLUTION PREVENTION PLAN; CONTENTS OF PLANS.

- (a) The Stormwater Pollution Prevention Plan (SWPPP) shall include the content specified by Section 9VAC25-870-54 and must also comply with the requirements and general information set forth in Section 9VAC25-880-70, Section II [stormwater pollution prevention plan] of the general permit.
- (b) The SWPPP shall be amended by the operator whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to state waters which is not addressed by the existing SWPPP.
- (c) The SWPPP must be maintained by the operator 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. Operators shall make the SWPPP available for public review in accordance with Section II of the general permit, either electronically or in hard copy.

Sec. 7-9. - STORMWATER MANAGEMENT PLAN; CONTENTS OF PLAN.

- (a) The Stormwater Management Plan, required in Section 7-7 of this Ordinance, must apply the stormwater management technical criteria set forth in Section 7-12 of this Ordinance to the entire land-disturbing activity, consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to subsurface runoff, and include the following information:
 - (1) Information on the type and location of stormwater discharges; information on the features to which stormwater is being discharged including surface waters or karst features, if present, and the predevelopment and post-development drainage areas;
 - (2) Contact information including the name, address, and telephone number 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 [Alternatively, the City of Norton may allow the information that addresses the current and final site conditions to be provided and documented during the review process];
 - (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) The type of facilities;
 - (ii) Location, including geographic coordinates;

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- (iii) Acres treated; and
 - (iv) The surface waters or karst features, if present, 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 Section 7-12 of this ordinance.
- (8) A map or maps 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 but not limited to planned locations of utilities, roads, and easements.
- (b) If an operator intends to meet the water quality and/or quantity requirements set forth in Section 7-12 of this Ordinance through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included. Approved off-site options must achieve the necessary nutrient reductions prior to the commencement of the applicant's land-disturbing activity except as otherwise allowed by § 62.1-44.15:35 of the Code of Virginia.
- (c) Elements of the stormwater management plans that include activities regulated under Chapter 4 (§54.1-400 et seq.) of Title 54.1 of the Code of Virginia shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.
- (d) A construction record drawing for permanent stormwater management facilities shall be submitted to the Administrator. The construction record drawing shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia, certifying that the stormwater management facilities have been constructed in accordance with the approved plan. [NOTE: An Administrator may elect not to require construction record drawings for stormwater management facilities for which maintenance agreements are not required pursuant to Section 7-13 (b).]

Sec. 7-10. – POLLUTION PREVENTION PLAN; CONTENTS OF PLANS.

- (a) Pollution Prevention Plan, required by 9VAC25-870-56, shall be developed, implemented, and updated as necessary and must detail the design, installation, implementation, and maintenance of effective pollution prevention measures 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:
 - (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.

Sec. 7-11. - REVIEW OF STORMWATER MANAGEMENT PLAN.

- (a) The Administrator or any duly authorized agent of the Administrator shall review stormwater management plans and shall approve or disapprove a stormwater management plan according to the following:
 - (1) The Administrator shall determine the completeness of a plan in accordance with Section 7-8 of this Ordinance, and shall notify the applicant, in writing, of such determination, within 15 calendar days of receipt. If the plan is deemed to be incomplete, the above written notification shall contain the reasons the plan is deemed incomplete.
 - (2) The Administrator shall have an additional 60 calendar days from the date of the communication of completeness to review the plan, except that if a determination of

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completeness is not made within the time prescribed in subdivision (1), then plan shall be deemed complete and the Administrator shall have 60 calendar days from the date of submission to review the plan.

- (3) The Administrator shall review any plan that has been previously disapproved, within 45 calendar days of the date of resubmission.
 - (4) During the review period, the plan shall be approved or disapproved and the decision communicated in writing to the person responsible for the land-disturbing activity or his designated agent. If the plan is not approved, the reasons for not approving the plan shall be provided in writing. Approval or denial shall be based on the plan's compliance with the requirements of this Ordinance.
 - (5) If a plan meeting all requirements of this Ordinance is submitted and no action is taken within the time provided above in subdivision (2) for review, the plan shall be deemed approved.
- (b) Approved stormwater plans may be modified as follows:
- (1) Modifications to an approved stormwater management plan shall be allowed only after review and written approval by the Administrator. The Administrator shall have 60 calendar days to respond in writing either approving or disapproving such request.
 - (2) The Administrator may require that an approved stormwater management plan be amended, within a time prescribed by the Administrator, to address any deficiencies noted during inspection.
- (c) The Administrator shall require the submission of a construction record drawing for permanent stormwater management facilities. The Administrator may elect not to require construction record drawings for stormwater management facilities for which recorded maintenance agreements are not required pursuant to Section 7-13 (b).

Sec. 7-12 - 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, Wise County hereby adopts the technical criteria for regulated land-disturbing activities set forth in Part II B of the Regulations, as amended, expressly to include 9VAC25-870-63 [water quality design criteria requirements]; 9VAC25-870-65 [water quality compliance]; 9VAC25-870-66 [water quantity]; 9VAC25-870-69 [offsite compliance options]; 9VAC25-870-72 [design storms and hydrologic methods]; 9VAC25-870-74 [stormwater harvesting]; 9VAC25-870-76 [linear development project]; and, 9VAC25-870-85 [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.

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- (b) Until June 30, 2019, any land-disturbing activity for which a currently valid proffered or conditional zoning plan, preliminary or final subdivision plat, preliminary or final site plan or zoning with a plan of development, or any document determined by the City of Norton as being equivalent thereto, was approved by the City of Norton prior to July 1, 2012, and for which no coverage under the general permit has been issued prior to July 1, 2014, shall be considered grandfathered by the Administrator and shall not be subject to the technical criteria of Part II B [of the Regulations], but shall be subject to the technical criteria of Part II C [of the Regulations] for those areas that were included in the approval, provided that the Administrator finds that such proffered or conditional zoning plan, preliminary or final subdivision plat, preliminary or final site plan or zoning with a plan of development, or any document determined by the City of Norton as being equivalent thereto, (i) provides for a layout and (ii) the resulting land-disturbing activity will be compliant with the requirements of Part II C. In the event that the City of Norton approved document is subsequently modified or amended in a manner such that there is no increase over the previously approved plat or plan in the amount of phosphorus leaving each point of discharge of the land-disturbing activity through stormwater runoff, and such that there is no increase over the previously approved plat or plan in the volume or rate of runoff, the grandfathering shall continue as before.
- (1) Until June 30, 2019, for local, state, and federal projects for which there has been an obligation of local, state, or federal funding, in whole or in part, prior to July 1, 2012, or for which the Department has approved a stormwater management plan prior to July 1, 2012, such projects shall be considered grandfathered by the City of Norton and shall not be subject to the technical requirements of Part II B of the Regulations, but shall be subject to the technical requirements of Part II C of the Regulations for those areas that were included in the approval.
- (2) For land-disturbing activities grandfathered under this Subsection, construction must be completed by June 30, 2019, or portions of the project not under construction shall become subject to the technical requirements of Subsection (a) above.
- (c) 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 requirements Part IIC of the Regulations, as adopted by the City of Norton in Subsection (b) of this Section.
- (d) The Administrator may grant exceptions to the technical requirements of Part II B or Part II C of the Regulations, provided that (i) the exception is the minimum necessary to afford relief, (ii) reasonable and appropriate conditions are imposed so that the intent of the Act, the Regulations, and this Ordinance are preserved, (iii) granting the exception will not confer any special privileges that are denied in other similar circumstances, and (iv) exception requests are not based upon conditions or circumstances that are self-imposed or self-created. Economic hardship alone is not sufficient reason to grant an exception from the requirements of this Ordinance.
- (1) Exceptions to the requirement that the land-disturbing activity obtain required VSMP authority permit shall not be given by the Administrator, nor shall the Administrator approve the use of a BMP not found on the Virginia Stormwater BMP Clearinghouse Website, or any other control measure duly approved by the Director.

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- (2) Exceptions to requirements for phosphorus reductions shall not be allowed unless offsite options otherwise permitted pursuant to 9VAC25-870-69 have been considered and found not available.
- (e) Nothing in this Section shall preclude an operator from constructing to a more stringent standard at their discretion.

Sec. 7-13 - LONG-TERM MAINTENANCE OF PERMANENT STORMWATER FACILITIES

- (a) The Administrator 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 Administrator and shall at a minimum:
 - (1) Be submitted to the Administrator 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 Administrator; and
 - (5) Be enforceable by all appropriate governmental parties.
- (b) At the discretion of the Administrator, 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 Administrator that future maintenance of such facilities will be addressed through an enforceable mechanism at the discretion of the Administrator.
- (c) If a recorded instrument is not required pursuant to Subsection 7-13 (b), the Administrator 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 Administrator, or any duly authorized agent of the Administrator.

Sec. 7-14. - MONITORING AND INSPECTIONS, VSMP

- (a) The Administrator, or any duly authorized agent of the Administrator 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 Administrator, or any duly authorized agent of the Administrator 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.
- (c) In accordance with a performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement or instrument, the Administrator may also enter any establishment or upon any property, public or private, for the purpose of initiating or maintaining appropriate actions which are required by the permit conditions associated with a land-disturbing activity when a permittee, after proper notice, has failed to take acceptable action within the time specified.
- (d) Pursuant to § 62.1-44.15:40 of the Code of Virginia, the Administrator may require every VSMP authority permit applicant or permittee, or any such person subject to VSMP authority permit requirements under this Ordinance, to furnish when requested such application materials, plans, specifications, and other pertinent information as may be necessary to determine the effect of his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of this Ordinance.
- (e) Post-construction inspections of stormwater management facilities required by the provisions of this Ordinance shall be conducted by the Administrator or any duly authorized agent of the Administrator pursuant to the City of Norton adopted and State Board approved inspection program, and shall occur, at minimum, at least once every five (5) years except as may otherwise be provided for in Section 7-13.

Sec. 7-15. – HEARINGS

- (a) Any permit applicant or permittee, or person subject to Ordinance requirements, aggrieved by any action of the City of Norton taken without a formal hearing, or by inaction of the City of Norton, may demand in writing a formal hearing by the City of Norton 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 City of Norton Council at a regular or special meeting of the City of Norton Council, or by at least one member of

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the City of Norton Council designated by the City of Norton Council to conduct such hearings on behalf of the City of Norton Council at any other time and place authorized by the City of Norton Council.

- (c) A verbatim record of the proceedings of such hearings shall be taken and filed with the City of Norton Council. Depositions may be taken and read as in actions at law.
- (d) The City of Norton 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 City of Norton, 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.

Sec. 7-16. – ENFORCEMENT, VSMP, Stormwater Management Act(62.1-44.15:48)

- (a) If the Administrator determines that there is a failure to comply with the VSMP authority 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 (b) 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 Administrator 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 Section 7-5 (c) of this ordinance. 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 Administrator 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

Stormwater Management Ordinance-City of Norton

cancel such emergency order. If a person who has been issued an order is not complying with the terms thereof, the Administrator may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with Subsection 7-16(c).

- (b) In addition to any other remedy provided by this Ordinance, if the Administrator 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 Section 7-7 of this ordinance.
 - (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 Administrator may be compelled in a proceeding instituted in Wise County Circuit Court by the City of Norton to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.
 - (d) Any person who violates any provision of this Ordinance or who fails, neglects, or refuses to comply with any order of the Administrator, shall be subject to a civil penalty not to exceed \$32,500 for each violation within the discretion of the court. Each day of violation of each requirement shall constitute a separate offense.
- (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 Section 4VAC 50-60-1170 of the general permit.
 - (2) The Administrator 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 Locality shall be paid into the treasury of the City of Norton to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of the City of Norton and abating environmental pollution therein in such manner as the court may, by order, direct.

- (e) Notwithstanding any other civil or equitable remedy provided by this Section 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.

Sec. 7-17. - Penalties, injunctions, and other legal actions.(62.1-44.15:63) Erosion and Sediment Control Law

- (a) Violators of this chapter shall be guilty of a Class I misdemeanor.
- (b) Any person who violates any provision of this chapter shall, upon a finding of the District Court of Wise County, be assessed a civil penalty. The civil penalty for any one violation shall be one hundred dollars (\$100.00), except that the civil penalty for commencement of land-disturbing activities without an approved plan shall be one thousand dollars (\$1,000.00). Each day during which the violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of three thousand dollars (\$3,000.00), except that a series of violations arising from the commencement of land-disturbing activities without an approved plan for any site shall not result in civil penalties which exceed a total of ten thousand dollars (\$10,000.00).
- (c) The City of Norton or the owner or property which has sustained damage or which is in imminent danger of being damaged, may apply to the Circuit Court of Wise County to enjoin a violation or a threatened violation of this chapter, without the necessity of showing that an adequate remedy at law does not exist.
- However, an owner of property shall not apply for injunctive relief unless (i) he has notified in writing the person who has violated the local program, and the program authority, that a violation of the local program has caused, or creates a probability of causing, damage to his property, and (ii) neither the person who has violated the local program nor the program authority has taken corrective action within fifteen (15) days to eliminate the conditions which have caused, or create the probability of causing, damage to his property.
- (d) In addition to any criminal penalties provided under this chapter, any person who violates any provision of this chapter may be liable to the City of Norton in a civil action for damages.
- (e) Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting, or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the

Stormwater Management Ordinance-City of Norton

court, to a civil penalty not to exceed two thousand dollars (\$2,000.00) for each violation. A civil action for such violation or failure may be brought by the City of Norton. Any civil penalties assessed by a court shall be paid into the treasury of the City of Norton, except that where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.

- (f) With the consent of any person who has violated or failed, neglected or refused to obey any regulation or condition of a permit or any provision of this chapter, the City of Norton may provide for the payment of civil charges for violations in specific sums, not to exceed the limit specified in subsection (e) of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under subsection (e).
- (g) The commonwealth's attorney shall, upon request of the City of Norton or the permit issuing authority, take legal action to enforce the provisions of this chapter.
- (h) Compliance with the provisions of this chapter shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion, siltation or sedimentation that all requirements of law have been met, and the complaining party must show negligence in order to recover any damages.

Sec. 7-18. - Appeals and judicial review.

- (a) Any applicant under the provision of this chapter who is aggrieved by any action of the City of Norton or its agent in disapproving plans submitted pursuant to this chapter shall have the right to apply for and receive a review of such action by the City of Norton Council provided an appeal is filed within thirty (30) days from the date of the action. Any applicant who seeks an appeal hearing before the City of Norton Council shall be heard at the next regularly scheduled City Council public hearing provided that the City of Norton Council and other involved parties have at least thirty (30) days prior notice. In reviewing the agent's actions, the City of Norton Council shall consider evidence and opinions presented by the aggrieved applicant and agent. After considering the evidence and opinions, the City of Norton Council may affirm, reverse or modify the action. The City of Norton Council's decision shall be final, subject only to review by the Circuit Court of Wise County.
- (b) Final decisions of the City of Norton under this chapter shall be subject to review by the Wise County Circuit Court, provided an appeal is filed within thirty (30) days from the date of any written decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in land-disturbing activities.

Sec. 7-19. - Permits; fees; security for performance.

- (a) Agencies authorized under any other law to issue grading, building, or other permits for activities involving land-disturbing activities may not issue any such permit unless the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.
- (b) No person may engage in any land-disturbing activity until he has acquired a land-disturbing permit, unless the proposed land-disturbing activity is specifically exempt from the provisions of this chapter, and has paid the fees and posted the required bond.
- (c) A plan review and inspection fee in the amount authorized by city council from time to time shall be paid at the time of submission of the erosion and sediment control plan.
- (d) No land-disturbing permit shall be issued until the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.
- (e) Fees to cover costs associated with implementation of a VSMP related to land disturbing activities and issuance of general permit coverage and VSMP authority permits shall be imposed in accordance with a fee schedule or schedules approved by the City of Norton Council from time to time in accordance with and subject to statewide statutes and regulations of general applicability.
- (f) An approved fee schedule, entitled, "Fee Schedule for Stormwater Management Program Administration/Erosion and Sediment Control Program Administration/Permit Issuance" is on file in the Building Official's office.

Sec. 7-20. - Performance Bond

Prior to issuance of any permit, the Applicant may 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 Norton Attorney, to ensure that measures could be taken by the City of Norton 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 Norton takes such action upon such failure by the Applicant, the City of Norton 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.

~~(e) All applicants for permits shall provide to the City of Norton a performance bond, cash escrow, or an irrevocable letter of credit acceptable to the erosion and sediment control program administrator, to ensure that measures could be taken by the City of Norton at the applicant's expense should the applicant fail, after proper notice, within the time specified to initiate or maintain appropriate conservation measures required of him by the approved plan as a result of his land-disturbing activity.~~

~~The amount of the bond or other security for performance shall not exceed the total of the estimated cost to initiate and maintain appropriate conservation action based on unit price for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs and inflation which shall not exceed twenty-five (25) percent of the cost of the conservation action. Should it be necessary for the City of Norton to take such conservation action, The City of Norton may collect from the applicant any costs in excess of the amount of the surety held.~~

~~Within sixty (60) days of adequate stabilization, as determined by the erosion and sediment control program administrator in any project or section of a project, such bond, cash escrow or letter of credit, or the unexpended or unobligated portion thereof, shall be either refunded to the applicant or terminated, based upon the percentage of stabilization accomplished in the project or project section. These requirements are in addition to all other provisions relating to the issuance of permits and are not intended to otherwise affect the requirements for such permits.~~

FUNDING AND STAFFING PLAN FOR THE CITY OF NORTON STORMWATER CONTROL PROGRAM

- Development trends in the City of Norton have leveled off somewhat since significant construction activity took place from 2005-2008. Current staffing levels were sufficient to handle the enforcement of the City's ESC ordinance during the peak time. It is the City's opinion that no additional staff will be required to administer the storm water management program. Once the program is implemented and staff is certified in the storm- water disciplines, a smooth transition of land-disturbance permitting is expected. The Building Official will perform the program administration/enforcement, plan review, and inspections for the City's storm water program.
- Winfred Collins, who is the City's Building Official and is the certified combined administrator for the ESC program, will be the contact person for the City's development and enforcement of the stormwater management program. Mr. Collins will also be perform the plan review, inspections, and administration/enforcement of the City's stormwater management program. Phone contact information is 276-679-1160. Email contact information is winfredc@nortonva.org. Office hours are 8:30am to 5:00pm Monday through Friday.
- Funding for the stormwater management program will come from the building/zoning category of the City's operating budget. Revenue generated by permit fees will be used to offset the cost of enforcement of the program. The City has successfully operated its ESC program by this funding method since 2006. An increase in inspections is not anticipated since ESC inspections will be and have been conducted regardless of the disturbance area. A slight increase in program administration and plan review is expected because of the technical provisions of the stormwater program. City staff intends to utilize all available online resources from the various state agencies for the plan review, permitting, and administration of its storm water management program.

POLICIES AND PROCEDURES FOR IMPLEMENTING CITY OF NORTON'S
STORMWATER CONTROL PROGRAM

Pending approval from the State Soil and Water Conservation Board, the City of Norton will implement the stormwater control program into its application review process on July 1st, 2014. Any proposed land disturbance activities will be evaluated to determine which area of the newly combined ordinance will be used to enforce the activity and to determine the permitting needs for the project. Disturbances over 10,000 SF but not over an acre, and not in a common plan of development will be issued a land disturbance permit pending approval of the required e and s plan or an agreement in lieu of a plan, if the project involves a single family dwelling.

Projects that do not exceed an acre but are in a common plan of development, or projects that are 1 acre or above will be required to obtain a VSMP as well as a land disturbance permit. The land disturbance permit fee will be waived when it is issued in conjunction with a VSMP.

The VSMP will be obtained on the internet with assistance from department staff. Distribution methods of the fees between the City and the Department of Environmental Quality will be determined when the internet based permit system is functional.

Land disturbance permits will continue to be issued locally.

Enforcement, inspections, plan review, and program administration will be performed by certified individuals in the building department. The City currently has a certified combined administrator for Erosion and Sediment Control. Training for the combined administrator in stormwater management is underway. The certification exams will be taken when they are made available.

Plans, inspections, notices of violation and other pertinent documentation will be maintained in the Building Officials office.

Fee Schedule for Stormwater Management Program Administration/Erosion and Sediment Control Program Administration/Permit Issuance

Table 1

Fee type	Total fee to be paid by Applicant (includes both VSMP authority and Department portions where applicable)	Department portion of "total fee to be paid by Applicant" (based on 28% of total fee paid*)
Land Disturbance Permit(Areas over 10,000 square feet but under 1 acre and not in a common plan of development.)	\$50	\$0
General / Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre.)	\$290	\$81
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)	\$2,700	\$756
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)	\$3,400	\$952
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]	\$4,500	\$1,260
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)	\$6,100	\$1,708
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)	\$9,600	\$2,688

(1) 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.

(2) City of Norton projects are only subjected to Column 2. "Department portion". of the fee chart.

(3) Applicants required to obtain a VSMP will not be required to pay the fee for a land disturbance permit though a land disturbance permit will be issued and maintained by the Administrator.

Fees for the modification or transfer of registration statements from the general permit issued by the State Board 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 of Norton, 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. [NOTE: Fees specified in this Subsection go to the City of Norton.]

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
General / Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre)	\$20
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)	\$200
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)	\$250
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)	\$300
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)	\$450
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)	\$700

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. [NOTE: Fees specified in this Subsection go to the City of Norton.]

Table 3: Permit Maintenance Fees

Type of Permit	Fee Amount
General / Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre)	\$50
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)	\$400
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)	\$500
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)	\$650
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)	\$900
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)	\$1,400

General permit coverage maintenance fees shall be paid annually the City of Norton, 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.

The fees set forth in Tables 1 -3 above, 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.

- (4) Permit and permit coverage maintenance fees outlined in table 3 may apply to each general permit holder.

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 Administrator 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 Administrator or errors related to the acreage of the site.

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 of Norton shall be entitled to all remedies available under the Code of Virginia in collecting any past due amount.

7-C

Inter-Office Memo



To: Mayor and City Council
From: Fred L. Ramey, Jr., City Manager **FR**
CC:
Date: November 24, 2013
Re: Update on Proposed Pump and Haul Ordinance

At a recent meeting, City Council directed Mr. Bradshaw and I to begin working on a draft ordinance for your consideration. The purpose of this agenda item is to provide City Council with an update on that process.

Thank You.

City of Norton
618 Virginia Avenue
P. O. Box 618
Norton, Virginia 24273-0618



(276) 679-1160
fax: (276) 679-3510
www.nortonva.gov
email: cityhall@nortonva.gov

October 10, 2013

Cat Coal Mining, Inc.
Attn: Mr. Paul Ison
P. O. Box 806
Pound, VA 24279

Ref: Update on Pump and Haul Sewer Permit

Dear Mr. Ison:

On September 3, 2013, I presented your request for a Pump and Haul Sewage Permit to City Council at their regular meeting.

After discussing your request and presenting background information regarding your situation, City Council authorized me to work with our City Attorney to prepare a draft Pump and Haul Sewage Ordinance for their review.

Any such ordinance will require the approval of the Health Department prior to consideration of City Council. At this point, we have started the process of drafting the ordinance and I hope to update City Council on the progress at their next meeting which is scheduled for October 29th. Once the draft ordinance meets the approval of both the Health Department and City Council, the ordinance will be advertised for a Public Hearing and consideration by City Council.

I will keep you advised of the progress of this process, but please feel to contact me at any time if you have any questions.

Sincerely,

Fred L. Ramey, Jr.
City Manager

FLR

Visit Flag Rock - Norton's Mountain Masterpiece

City of Norton
618 Virginia Avenue
P. O. Box 618
Norton, Virginia 24273-0618



(276) 679-1160
fax: (276) 679-3510
www.nortonva.gov
email: cityhall@nortonva.gov

August 27, 2013

Cat Coal Mining, Inc.
Attn: Mr. Paul Ison
P. O. Box 806
Pound, VA 24279

Ref: Request for Pump and Haul Sewer Permit

Dear Mr. Ison:

This is to confirm that the City has received your request for a Pump and Haul Sewer Permit for your coal tipple located at 916 Kentucky Avenue, NE.

As we discussed, the City of Norton does not currently have a Pump and Haul Sewer Ordinance on our books, therefore I am not in a position to approve your request at this time. However, I plan to present your request at the next meeting of City Council currently planned for Tuesday, September 3rd. At that meeting, City Council may direct me to work with our City Attorney to prepare a draft ordinance for their review at a future Council meeting at which time Council may decide to modify, advertise the ordinance for a public hearing, or reject the ordinance entirely.

With that said, the entire process could take approximately 60-90 days to have a legal ordinance on our books that meets the Virginia Department of Health requirements. In the meantime, please feel free to have the Mine Safety and Health Administration officials contact me with any specific questions that may have pertaining to City Council's consideration of the permit.

Visit Flag Rock - Norton's Mountain Masterpiece

Page - 2 -
Mr. Paul Ison
August 27, 2013

Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in black ink that reads "FRED". The letters are bold and slightly slanted, with a cursive-like flow.

Fred L. Ramey, Jr.
City Manager

FLR

August 19, 2013

Cat Coal Mining, Inc.
P.O. Box 806
Pound, VA 24279

Fred Ramey
Norton City Manager
P.O. Box 618
Norton, VA 24273

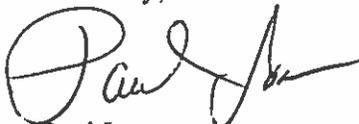
Dear Sir:

I would like to submit a permit request for a pump and haul sewage system at our coal tippie. The facility is located at 916 Kentucky Ave. NE in the city of Norton. The facility employs 3 miners, who all live within close distance to the mine. We would like to install one bathroom to include; one shower stall, a high efficiency toilet, and a sink. By our estimates a 2,500 gallon tank would suit our needs and we expect to, at most, pump 2,000 gallons bi-annually.

Our permit request stems from a denial of a bathhouse waiver request from the Mine Safety and Health Administration (MSHA). In the denial letter attached, MSHA requested that we explore the pump and haul system. Also attached is a denial of a sewage disposal application from Wise County and a denial for permission to bore a sewage line under the railroad track from Norfolk Southern Railroad.

If you should have any questions please feel free to contact our office (276) 796-4941 or the mine directly (276) 275-4297. We greatly appreciate your help in this manner.

Sincerely,



Paul Ison



JUL 17 2013

Mr. Paul Ison
Ambrose Branch Coal Company, Inc.
P. O. Box 806
Pound, VA 24279

Re: Request for a Bathhouse Waiver at Hawthorne Dock, I. D. 44-05021, received
June 5, 2013

Dear Mr. Ison:

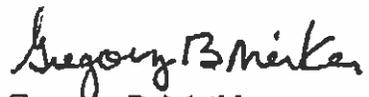
We acknowledge receipt of your request for a bathhouse waiver at Hawthorne Dock. Sufficient information in accordance with 30CFR, §71.404 was not provided. Therefore, your request for a bathhouse waiver is DENIED.

Section 71.404 requires a detailed statement of the grounds upon which the waiver is requested and the period of time for which it is requested. Grounds for the waiver request which are used in the detailed statement such as suitable water is not available or ground will not perk for waste water disposal should be validated by studies or reports including, but not limited to, reports from the Department of Health and/or Department of Environmental Quality. If such validation is made part of the waiver request it will expedite processing and approval.

This application does not address the alternative options that were mentioned in the letter from the Commonwealth of Virginia Department of Health attached to this bathhouse waiver request. If potable water, septic or other sewage disposal systems are not available, you could explore the Pump and Haul System for both clean and waste water availability and disposal.

If you have questions please contact Tony L. Arena at (276) 679-0230.

Sincerely,



Gregory B. Meikle
District Manager

TLA/jw

cc: District Files
District Health Files
Norton Field Office



**COMMONWEALTH OF VIRGINIA
VIRGINIA DEPARTMENT OF HEALTH**

Wise County/City of Norton Health Department
134 Roberts Street, S.W.
Wise, Virginia 24293
(276) 328-8000

PROPOSED SEWAGE DISPOSAL SYSTEM LETTER OF DENIAL

April 25, 2012

Ambrose Branch Coal Company, Inc.
Attn: Dustin Mullins
P.O. Box 806
Pound, VA 24279

RE: Sewage Disposal Application # 12-197-052
Property Tax Map # 469-A-5; Location: 916 Kentucky Avenue, Southeast, Norton, VA

Dear Mr. Mullins:

Your application for a Sewage Disposal Construction Permit filed with Wise County/City of Norton Health Department on 4-17-12 has been evaluated in accordance with the requirements contained in the Code of Virginia, Section 32.1-163, the Sewage Handling and Disposal Regulations, and current agency policy and procedures for processing applications for on-site sewage disposal systems.

Based on the information filed with your application and the site and soil evaluations conducted by the departments representatives, your application for a Sewage Disposal System Construction Permit for the above referenced property is denied. The department's findings and reasons for denial are set forth in the items below:

1. Unsuitable fill material in immediate area of the building on the property.
2. Insufficient depth of suitable soil over hard rock.

This decision may be appealed in accordance with the provisions of the Sewage Handling and Disposal Regulations. Your appeal must be filed within thirty (30) days of your receipt of this letter. The first step in the appeal process is to submit to Eleanor S. Cantrell, M.D., a written request detailing and outlining all the facts and such other data or information which forms the basis for your appeal.

There may be alternative sewage disposal systems that might be applicable to your situation. If you are interested in utilizing one of these alternative systems, please contact this office and we will be glad to discuss the possibility of their use on your property. These systems are designed to be used under conditions where conventional systems cannot, however there are situations in which they will not achieve compliance with the current regulations.

If this office can be of further assistance, please let us know.

Sincerely,

A handwritten signature in cursive script that reads "Christopher Cantrell".

Christopher Cantrell

Environmental Health Specialist Sr.



Norfolk Southern Corporation
800 Princeton Avenue
Bluefield, West Virginia 24701

Bluefield – May 21, 2013

Mr. Dustin Mullins
Ambrose Coal Company
8456 Clintwood Highway
Pound, VA 24279

Dear Mr. Mullins:

This is in connection with your request to drill a sewer pipeline under NS tracks on the Clinch Valley Territory, near Norton, VA.

After talking with the trainmaster and track supervisor over this territory, it was determined that it would not be feasible for you to drill a sewer pipeline at this time.

Sincerely,

A handwritten signature in black ink, appearing to read "D. C. Talley". The signature is written in a cursive, flowing style with a long horizontal stroke extending to the right.

D. C. Talley
Division Superintendent

131001

11-18-2013

Norton Industrial Development Authority
November 2013 Draw Request

\$122,004.25

4-001-081000-5604

7-D

CITY OF NORTON
GENERAL OPERATING FUND
NORTON, VA 24273

THE FIRST BANK & TRUST
NORTON, VA

131001

63 446 514
10

*****One Hundred Twenty-Two Thousand Four Dollars and Twenty-Five Cents*****
PAY TO THE ORDER OF:

┌
Norton Industrial Development Authority

DATE

AMOUNT

11-18-2013

\$122,004.25

AUTHORIZED SIGNATURE

Details on Back.
Security Features Included

⑈ 131001 ⑈ ⑆051404464⑆ 100002346⑈