

**CHAPTER 30  
ENVIRONMENT  
ARTICLE IV STORMWATER MANAGEMENT**

**Table of Contents:**

**Division 1. General Provisions**

**Division 2. Definitions**

**Division 3. Stormwater Management Program Permit Procedures and Requirements**

**Division 4. Stormwater Management Plan Contents, Review, and Technical Criteria**

**Division 5. Stormwater Management Plans General Criteria**

**Division 6. Construction Inspection**

**Division 7. Maintenance and Repair of Stormwater Facilities**

**Division 8. Enforcement and Violations**

**Division 1. General Provisions**

**30-131 Statutory Authority**

The Virginia Stormwater Management Act (“Law”), Title 62.1, Chapter 3.1, Article 2.3 of the Code of Virginia requires localities to establish a Virginia Stormwater Management Program (VSMP) consistent with state regulations promulgated pursuant to the law.

**30-132 Purpose**

- A. The purpose of this ordinance is to establish minimum stormwater management requirements and controls to protect properties and the general health and safety of the public within this jurisdiction by minimizing flooding, stream bank erosion and non-point source pollution of aquatic resources. This ordinance seeks to meet that purpose through the following objectives:
1. Require that land disturbing activities control the post-development runoff characteristics to reduce the magnitude and frequency of flooding, siltation, stream bank erosion, and property damage.
  2. Establish minimum design criteria for the protection of properties and aquatic resources downstream from land disturbing activities from damages due to increases in velocity, frequency, and duration, and peak flow rate of stormwater runoff.
  3. Establish minimum design criteria for measures to minimize non-point source pollution from stormwater runoff, which would otherwise reduce water quality.
  4. Establish provisions for long-term responsibility for maintenance and repair of stormwater management control devices and other techniques specified to manage the quality and quantity of runoff.
  5. Establish provisions for submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities.

### 30-133 Applicability

- A. This chapter shall be applicable to all land disturbance projects except as provided herein. The chapter also applies to land disturbance activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development that meets the applicability criteria, even though multiple separate and distinct land disturbance activities may take place at different times on different schedules.
- B. The following activities are exempt from these stormwater performance criteria; 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 Act;
  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 or 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 (provided that there are no existing or anticipated flooding or erosion problems downstream of the discharge point);
  4. Land disturbance projects that disturb less than 5,000 square feet of land area and are not part of a larger common plan of development or sale that is one acre or greater of disturbance (provided that there is no existing or anticipated flooding or erosion problems downstream of the discharge point);
  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;
  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;
  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.

### **30-134 Compatibility with Other Permit and Ordinance Requirements**

This chapter is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this chapter should be considered minimum requirements, and where any provision of this chapter imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

### **30-135 Severability**

If the provisions of any Division, section, subsection, paragraph, subdivision or clause of this chapter shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any Division, section, subsection, paragraph, subdivision or clause of this chapter.

### **30-136 Program Administration and Appeals**

The City of Salem designates the City Engineer, or any duly authorized agent of the City Engineer, as the local Stormwater Management Program Administrator. Appeals will be conducted in accordance with the City's appeal procedures.

## **Division 2. Definitions**

**30-137 The following words, terms and phrases, when used in this Ordinance, shall have the meanings described to them in this division except where the context clearly indicates a different meaning:**

**“Administrator”** means the Virginia Stormwater Management Program (VSMP) authority, which is designated herein as the City Engineer for the City of Salem or designee.

**“Agreement in lieu of a stormwater management plan”** means a contract on a form approved by the Administrator between the City of Salem and the person who is applying for a permit that specifies methods that will be implemented to comply with the requirements of a VSMP for the construction of a single family residence.

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

**“Best Management Practice (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 State Water Control Board

**“Channel”** means a natural or artificial watercourse with a defined bed and banks that conducts continuously or periodically flowing water.

“**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.

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

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

“**Department**” means the Virginia Department of Environmental Quality.

“**Development**” means land disturbance and the resulting landform associated with the construction of residential, commercial, industrial, institutional, recreation, transportation or utility facilities or structures or the clearing of land for non-agricultural or non-silvicultural purposes.

“**Director**” means the Director of the Virginia Department of Environmental Quality.

“**General Permit**” means the state permit titled GENERAL VPDES PERMIT FOR DISCHARGES OF STORMWATER FROM CONSTRUCTION ACTIVITIES found in Part XIV (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.

“**Land Disturbance**” or “**Land Disturbance 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 exemptions specified in Section 30-133(B) of this Ordinance.

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

“**Locality**” means the City of Salem.

“**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.

“**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.

“**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 a VSMP Authority Permit is issued.

“**Person**” means any individual, corporation, partnership, association, state, municipality, commission, or political subdivision of a state, governmental body, including federal, state, or local entity as applicable, any interstate body or any other legal entity.

“**Regulations**” means the Virginia Stormwater Management Program (VSMP) Regulations, 9VAC25-870, as amended.

“**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.

“**State Board**” means the State Water Control Board.

“**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 water, 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 (SWM) Plan**” or “**Plan**” means a document containing material describing methods for compliance with Section 30-141 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 as defined in 78-300 of the 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 tradeoffs.

“**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 the City of Salem, an authority approved by the State Board to operate a Virginia Stormwater Management Program.

### **Division 3. Stormwater Management Program Permit Procedures and Requirements**

#### **30-138 Land Disturbing Permits**

- A. It is the intent of this Division that it is to be administered in conjunction with the Subdivision, Zoning, Erosion and Sediment Control, and Illicit Discharge ordinances, wherein such apply to the development and subdivision of land or to development on previously subdivided land. No land disturbance permit shall be issued by the Administrator until an erosion and sediment control plan approved in accordance with the City of Salem Erosion and Sediment Control Ordinance Article III has been submitted to and approved by the Administrator as prescribed herein.
- B. No person shall engage in any land disturbing activity greater than or equal to 5,000 square feet until a land disturbing permit has been issued by the Administrator in accordance with the provisions of this Ordinance, or an executed agreement in lieu of a stormwater management plan.
- C. Where land disturbing activities involve lands under jurisdiction of more than one local control program, the provisions which are more restrictive or impose higher protective standards for human health & safety and the environment shall be considered to take precedence.
- D. In addition to requirements 30-138B, no person shall engage in any land disturbing activity greater than or equal to 1 acre until he has acquired a VSMP authority permit and complied with the provisions of Divisions 4 and 5 of this Ordinance.
- E. Land Disturbance Permits for activities disturbing greater than or equal to 5,000 square feet and less than 1 acre of land shall comply with the provisions of Divisions 4 and 5 of this Ordinance with the exception of 9VAC25-870-63 [water quality design criteria requirements] and 9VAC25-870-65 [water quality compliance].
- F. Issuance of a land disturbing permit is conditioned on an approved stormwater management plan per Section 30-144, including a maintenance agreement per Section 30-139, and an erosion and sediment control plan. Submittal of plans to the Authority for review requires fee(s) per Section 30-146. Any necessary performance bond, cash escrow, letter of credit, any combination thereof, or such other legal arrangement as is

acceptable under the provisions of section 30-140 shall be presented at the time of application for a land disturbing permit. No land disturbance permit shall be issued until the fees and bonds required to be paid pursuant to this ordinance are received.

- G. Any stormwater management plan submitted under the provisions of this section will be acted upon by the plan approving authority within 45 days from the communication of completeness notification by the Administrator as described in Section 30-144. Action will either approve or disapprove such plan in writing and, if necessary, giving specific explanation for disapproval. Approval or denial shall be based on the plan's compliance with the requirements of this Ordinance. If no formal action has been taken by the plan approving authority within the time specified in this subsection, the plan shall be deemed approved, and the person authorized to proceed with the proposed activity.
- H. No grading, building or other local permit shall be issued for a property unless a land disturbance permit has been issued by the Administrator.
- I. For land disturbance of 1 acre or greater no land disturbance permit shall be issued by the Administrator until a permit application that includes a general permit registration statement has been submitted to and approved by the Administrator as prescribed herein. A registration statement is not required for detached single-family home construction within or outside of common plan of development or sale, but that such projects must adhere to the requirements of the general permit.
- J. No land disturbance permit shall be issued until evidence of general permit coverage is obtained for land disturbance of 1 acre or greater.
- K. No land disturbance permit shall be issued unless and until the permit application and attendant materials and supporting documentation demonstrate that all land clearing, construction, disturbance, land disturbance, and drainage will be done according to the approved permit.

### **30-139 Stormwater Facility Maintenance Agreements**

Prior to the issuance of any land disturbing permit that has a stormwater management facility as one of the requirements of the permit, the applicant or owner of the site must submit a maintenance agreement and maintenance covenant for review and approval by the Administrator or duly authorized agent of the Administrator. The applicant or owner must execute the approved maintenance easement agreement and a formal maintenance covenant that shall be binding (by deed or plat) on all subsequent owners of land served by the stormwater management facility.

#### **A. Maintenance Easement Agreement**

The Maintenance Easement Agreement shall provide for all necessary access to the property for performing maintenance and inspections of the stormwater management facility. Access shall be provided at reasonable times for periodic inspection by the

plan approving authority, or their contractor or agent, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this ordinance. The easement agreement shall be recorded by the plan approving authority in the land records. When any new drainage control facility is installed on private property, or when any new connection is made between private property and a public drainage control system, the property owner shall grant, after given notice and the opportunity to accompany the inspection, to the plan approving authority the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this ordinance is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this ordinance.

#### B. Maintenance Covenants

Maintenance of all stormwater management facilities shall be ensured through the creation of a formal maintenance covenant that must be approved by the plan approving authority and recorded into the land record prior to final plan approval. The covenant shall identify by name or official title the person(s) responsible for carrying out the maintenance. Responsibility for the operation and maintenance of stormwater management facilities shall remain with the property owner and shall pass to any successor or owner. If portions of the land are to be sold, legally binding arrangements shall be made to pass the basic responsibility to successors in title. These arrangements shall designate for each property owner, Homeowner's Association, or other legally established entity to be permanently responsible for maintenance. As part of the covenant, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the stormwater management facility with submission of inspection and maintenance reports to the Administrator. The covenant shall also include plans and schedules for inspections to ensure proper performance of the facility between scheduled maintenance and should also include "failure to maintain" provisions. In the event that maintenance or repair is neglected, or the stormwater management facility becomes a danger to public health or safety, the plan approving authority reserves the authority to perform the work and to recover the costs from the owner.

#### **30-140 Performance Surety**

- A. All control measures required by the provisions of this Ordinance shall be undertaken at the expense of the applicant, and pending such actual provision thereof, the applicant, owner, developer or subdivider shall execute and file with the city treasurer, prior to issuance of the land disturbing permit, an agreement and surety (cash escrow, letter of credit, or other legal arrangements satisfactory to the City Attorney, in his sole discretion), in an amount determined by the plan approving authority equal to the approximate total cost of providing stormwater management improvements, with surety approved by the City attorney, and certification that the plan will be followed. Such agreement and bond shall ensure that measures could be

taken by the City at the applicant's expense should he fail, after proper notice, and within the time specified to initiate or maintain appropriate actions which may be required of him by permit conditions or an approved plan as a result of his land disturbing activity. Such bonding may be combined with other performance bonds required in conjunction with chapter 30, 78 or 106 of this Code.

- B. Within 60 days of the completion of the requirements of the approved stormwater management plan and after the approval of record/as-built per Section 30-149, the surety, or the unexpended or unobligated portion thereof, except for the landscaping survivability, shall be refunded to the applicant or terminated, as the case may be. The landscaping portion of the stormwater management plan shall be inspected one (1) year after installation with replacement in accordance with the final plans and specifications prior to final release.
- C. If the surety is not adequate to cover the cost to the plan approving authority for any work involved in stormwater management controls and/or best management practices, the city may collect the difference between the surety and the actual cost from the applicant. These requirements are in addition to all other provisions of law relating to the issuance of such permits and are not intended to otherwise affect the requirement of such permits.

#### **Division 4. Stormwater Management Plan Contents, Review, and Technical Criteria**

##### **30-141 Stormwater Management Plan; Contents of Plan**

No application for land disturbance will be approved unless it includes a stormwater management plan, as required by this ordinance, detailing how runoff and associated water quality impacts resulting from the activity will be controlled or managed. A stormwater management plan shall consist of a plan and profile view showing stormwater management facilities and storm sewers, hydrologic and hydraulic computations required as part of the design of facilities and conveyances, and a stormwater management narrative. The stormwater management narrative shall evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. The stormwater management plan shall be in accordance with the criteria established in Divisions 4 and 5, where applicable. Individual lots in new residential, commercial, or industrial developments shall not be considered separate land-disturbing activities. No land disturbing permit shall be issued until a satisfactory stormwater management plan, or a waiver thereof, shall have undergone a review and been approved by the plan approving authority after determining that the plan or waiver is consistent with the requirements of this Ordinance.

- A. The Stormwater Management Plan must apply the stormwater management general and technical criteria set forth in this Ordinance to the entire land-disturbing activity. Individual lots in new residential, commercial, or industrial developments shall not be

considered separate land-disturbing activities. A stormwater management plan shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface runoff, and include the following information: 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;
  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:
    - a. The type of facilities;
    - b. Location, including geographic coordinates;
    - c. Acres treated; and
    - d. 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 applicable water quality and quantity criteria.
  8. A map or maps of the site that depicts the topography of the site and includes:
    - a. All contributing drainage areas;
    - b. Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;
    - c. Soil types, geologic formations if karst features are present in the area, forest cover, and other vegetative areas;
    - d. Current land use including existing structures, roads, and locations of known utilities and easements;
    - e. Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;
    - f. The limits of clearing and grading, and the proposed drainage patterns on the site;
    - g. Proposed buildings, roads, parking areas, utilities, and stormwater management facilities; and
    - h. 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 30-145 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.

**30-142 VSMP Stormwater Pollution Prevention Plan; Contents of Plans**

- A. For activities with land disturbance equal to or greater than 1 acre, 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.

**30-143 VSMP Pollution Prevention Plan; Contents of Plan**

- A. For activities with land disturbance equal to or greater than 1 acre, a Pollution Prevention Plan, required by 9VAC-25-870-56, 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.

### **30-144 Review of Stormwater Management Plan**

- A. 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 30-144 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 45 calendar days from the date of the communication of completeness to review the plan, except that if a determination of 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/as-built drawing for permanent stormwater management facilities in accordance with Section 30-149.

### **30-145 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, City of Salem hereby adopts the technical criteria for regulated land-disturbing activities with land disturbance equal to or greater than 1 acre 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 (c) of this Section.
- B. The technical criteria in Subsection (a) shall also apply to all land-disturbing activities over 5,000 square feet but less than 1 acre with the exception of 9VAC25-870-63 [water quality design criteria requirements] and 9VAC25-870-65 [water quality compliance].
- C. 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 City of Salem as being equivalent thereto, was approved by City of Salem 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 City of Salem 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 City of Salem 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 City of

- Salem 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.
- D. 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 City of Salem in Subsection (b) of this Section.
- E. 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 Administrator.
  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.
- F. Nothing in this Section shall preclude an operator from constructing to a more stringent standard at their discretion.

### **30-146 Fees**

- A. Fees to cover costs associated with the implementation of a land disturbance permit related to land disturbing activities and issuance of general permit coverage and VSMP authority permits shall be imposed in accordance with Table 1. When a site or sites has been purchased for development within a previously permitted common plan of development or sale, the Applicant shall be subject to fees (“fee” column) in accordance with the disturbed acreage of their site or sites according to Table 1.

**Table 1: Fees for permit issuance**

Fee type	Fee Amount*
General/Stormwater Management - Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage less than 1 acre) and, if required by state law, detached single family residences within or without a common plan of development or sale with land-disturbance acreage equal to or greater than one acre and less than five acres)	\$290
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), not to include detached single family residences within or without a common plan of development or sale)	\$2,700
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
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
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
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

\* 28% of fee conveyed from the City to the Department

B. 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 permit modifications result in changes to stormwater management plans that require additional review by the City of Salem, such reviews shall be subject to the fees set out in Table 2. The fee assessed shall be based on the total disturbed acreage of the site. In addition to the general permit modification fee, modifications resulting in an increase in total disturbed acreage shall pay the difference in the initial permit fee paid and the permit fee that would have applied for the total disturbed acreage in Table 1.

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

Type of Permit	Fee Amount
General/Stormwater Management – Small Construction Activity/Land Clearing (Sites or 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

C. The following annual permit maintenance shall be imposed in accordance with Table 3, including fees imposed on expired permits that have been administratively continued. With respect to the permit, these fees shall apply until the permit coverage is terminated.

**Table 3: Permit Maintenance Fees**

Type of Permit	Fee Amount
General/Stormwater Management – Small Construction Activity/Land Clearing (Sites or 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 to the City of Salem, by the anniversary date of general permit coverage. No permit will be reissued or automatically continued without payment of the required fee. General permit coverage maintenance fees shall be applied until a Notice of Termination is effective.

- D. The fees set forth in Subsections (a) through (c) above, shall apply to:
  1. All persons seeking coverage under the non-VSMP and VSMP general permit.
  2. All permittees who request modifications to or transfers of their existing registration statement for coverage under a VSMP 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 may apply to each general permit holder.
  
- E. No general permit application fees will be assessed to:
  1. Permittees who request minor modifications to general permits as defined in Section 30-137 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.
  
- F. All incomplete payments will be deemed as non-payments, 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 Salem shall be entitled to all remedies available under the Code of Virginia in collecting any past due amount.

**Division 5. Stormwater Management Plans General Criteria**

**30-147 The general criteria within this Division apply to all land disturbance permits and are in addition to the technical criteria described in 30-145.**

- A. All stormwater management practices shall be designed to convey stormwater to allow for the maximum removal of pollutants and reduction in flow velocities. This shall include, but not be limited to:
  1. Maximizing the use of overland flow paths through vegetated areas.
  2. Protection of inlet and outfall structures

3. Elimination of erosive flow velocities
  4. Providing of underdrain systems, where applicable
- B. Downstream properties and waterways shall be protected from damages from localized flooding due to increases in velocity, frequency, and peak flow rate of stormwater runoff in accordance with the minimum design standards set out in this Ordinance.
- C. If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the plan approving authority reserves the right to impose any and all additional requirements deemed necessary to protect downstream properties and water resources from damage due to increased volume, frequency, and rate of stormwater runoff. All stormwater management discharges shall be to an adequate channel.
- D. Stormwater management facilities shall be designed to meet the following criteria: the 10- and 5-year post-developed peak runoff rate from the development site shall not exceed the 2- and 1-year pre-developed peak runoff rate, respectively.
- E. Fencing around the stormwater management facilities shall be constructed to prevent unauthorized access to the facility. Fencing shall comply with VDOT and City of Salem standards and shall not conflict with Subdivision & Zoning Ordinances standards: 1' to 3' from invert out to berm elevation – no fencing required; 3' and over from invert out to berm elevation - 6' high fence – board on board or galvanized chain link.

## **Division 6. Construction Inspection**

### **30-148 Notice of Construction Commencement and Inspection**

- A. Pursuant to §62.1-44.15:40 of the Code of Virginia, the Administrator may require every land disturbance 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.
- B. 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 and specifications;
  2. Compliance with the approved stormwater management plan and specifications or agreement in lieu;
  3. Development, updating, and implementation of a stormwater pollution prevention plan. pollution prevention plan; and

4. Development and implementation of any additional control measures necessary to address a TMDL.
- C. In addition, inspections shall comply with the latest version of the Erosion and Sediment Control Regulations, promulgated pursuant to Article 2.4 (§ 62.1-44.15:58) of Chapter 3.1 of Title 62.1 of the Code of Virginia. Enforcement of this Division shall rest with the plan approving authority, which shall enforce the provisions of this Division as a portion of its obligations for review, approval and inspection under the provisions of Chapter 78 of this Code.
  - D. The applicant must notify the plan approving authority in advance before the commencement of construction. It is critical that the erosion and sediment controls and stormwater management facilities are the first steps in the construction project. In addition, the applicant must notify the plan approving authority in advance of construction of critical components of the SWM facility. Periodic inspections of the stormwater management system construction shall be conducted by the staff of the plan approving authority or a professional engineer or their designee who has been approved by the plan approving authority.
  - E. If any violations are found, the property owner shall be notified in writing of the nature of the violation and the required corrective actions. No additional work shall proceed until all violations are corrected and all work previously completed has received approval by the plan approving authority. In addition, the person responsible for carrying out the plan may be required to provide inspection monitoring and reports to ensure compliance with the approved plan and to determine whether the measures required in the plan provide effective stormwater management. If the plan approving authority 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 in accordance with Division 6 of this Ordinance.
  - F. 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.
  - G. 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.

### **30-149 Post-Construction Final Inspection and As-Built Plans**

- A. All applicants are required to submit actual “as-built” plans for any stormwater

management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer. The certification must describe inspections performed of all aspects of the BMP construction, including surface as-built surveys, and geotechnical inspections during subsurface or backfilling, riser & principal spillway installation, bioretention soil placement and compaction activities. All inspections shall be documented and written reports prepared that contain the following information:

1. The date and location of the inspection;
  2. Whether construction is in compliance with the approved stormwater management plan;
  3. Variations from the approved construction specifications; and
  4. Any violations that exists.
- B. A construction record drawing, or as-built drawing, must be submitted for review and approval prior to release of any performance bond, cash escrow, letter of credit, any combination thereof, or such other legal arrangement as is acceptable held by the City of Salem under the provisions of section 30-140.

## **Division 7. Maintenance Inspection and Repair of Stormwater Facilities**

### **30-150 Maintenance Inspection of Stormwater Facilities**

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 Locality's adopted and State Board approved inspection program, and shall occur, at minimum, at least once every five (5) years.

All stormwater management facilities must undergo inspections to document maintenance and repair needs and ensure compliance with the requirements of this ordinance and accomplishment of its purposes. These needs may include: removal of silt, litter and other debris from all catch basins, inlets and drainage pipes; grass cutting and vegetation removal, and necessary replacement of landscape vegetation and any repair or replacement of structural features. In the event that the stormwater management facility has not been maintained and/or becomes a danger to public safety or public health, the plan approving authority shall notify the person responsible for carrying out the maintenance plan by registered or certified mail to the address specified in the maintenance covenant. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. If the responsible party fails or refuses to meet the requirements of the maintenance covenant, the plan approving authority, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition, and recover the costs from the owner.

### **30-151 Records of Maintenance and Repair Activities.**

Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least 5 years. These records shall be made available to the plan approving authority during inspection of the facility and at other reasonable times upon request.

## **Division 8. Enforcement and Penalties.**

### **30-152 Violations**

Any development activity that is commenced or is conducted contrary to this Ordinance, the approved plans, or permit may be subject to the enforcement actions outlined in this Division and the Virginia Stormwater Management Law. Violations for which a penalty may be imposed under this Subsection shall include but not be limited to the following:

1. No state permit registration;
2. No SWPPP;
3. Incomplete SWPPP;
4. SWPPP not available for review;
5. No approved erosion and sediment control or stormwater plan;
6. Failure to install stormwater BMPs or erosion and sediment controls;
7. Stormwater BMPs or erosion and sediment controls improperly installed or maintained;
8. Operational deficiencies;
9. Failure to conduct required inspections;
10. Incomplete, improper, or missed inspections; and

### **30-153 Notice of Violation**

When the plan approving authority determines that an activity is not being carried out in accordance with the requirements of this Ordinance or determines there is an unauthorized discharge, it shall issue a written Notice of Violation delivered 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. The Notice of Violation shall contain:

1. The name and address of the applicant;
2. The address when available or a description of the building, structure or land upon which the violation is occurring;
3. A statement specifying the nature of the violation;
4. Description of the measures needed to comply with the permit conditions and a specified timeframe 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 Section 30-156 or the permit may be revoked by the Administrator. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;

### **30-154 Stop Work Orders**

If a permittee fails to comply with a notice issued in accordance with this 30-155 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 become effective upon service on the person by certified mail, return receipt requested, sent 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. 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 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 Section 30-158.

### **30-155 Administrative Enforcement Procedures**

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 the following steps except in the case of an emergency order described in Section 30-156:

1. Verbal warnings and inspections per Division 6 of this Ordinance;
2. Notice of Violation per 30-155 of this Division;
3. Stop Work Orders per Section 30-156 of this Division; and
4. Where the Administrator finds a failure to comply within the timeframe specified in the Stop Work Order, the Administrator may revoke the non-VSMP or VSMP permit; and
5. 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 the Salem Circuit Court by the Locality to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.

### **30-156 Civil and Criminal Penalties**

- A. 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. The Administrator may issue a summons for collection of the civil penalty and the action may be prosecuted in the appropriate court.
  2. 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.
  3. 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 Salem to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of the locality and abating environmental pollution therein in such manner as the court may, by order, direct.
- B. 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.

### **30-158 Restoration of Lands**

Any violator may be required to restore land to its undisturbed condition or in accordance with a Notice of Violation, Stop Work Order, or Permit requirements. In the event that restoration is not undertaken within a reasonable time after notice, the plan approving authority may take necessary corrective action, the cost of which shall be covered by the performance bond, or become a lien upon the property until paid, or both.

### **30-159 Holds on Certificate of Occupation**

Occupation permits shall not be granted until corrections to all stormwater practices have been made in accordance with the approved plans, Notice of Violation, Stop Work Order, or land disturbance permit requirements, and accepted by the plan approving authority.

### **30-160 Liability for Damages**

Neither the approval of a stormwater management plan under the provisions of this Division nor the compliance with the conditions of such plan shall relieve any person from responsibility for damage to other persons or property or impose any liability upon the city from damage to other persons or property.

### **30-161 Hearings**

- A. Any permit applicant or permittee, or person subject to Ordinance requirements, aggrieved by any action of the City of Salem taken without a formal hearing, or by inaction of the City of Salem, may demand in writing a formal hearing by the Planning Commission 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 Planning Commission at a regular or special meeting of the Planning Commission, or by at least one member of the Planning Commission designated by the Planning Commission to conduct such hearings on behalf of the Planning Commission at any other time and place authorized by the Planning Commission.
- C. A verbatim record of the proceedings of such hearings shall be taken and filed with the Planning Commission. Depositions may be taken and read as in actions at law.
- D. The Planning Commission or its designated member, as the case may be, shall have power to issue subpoenas and subpoenas duces tecum, and at the request of any party shall issue such subpoenas. The failure of a witness without legal excuse to appear or to testify or to produce documents shall be acted upon by the local governing body, or its designated member, whose action may include the procurement of an order of enforcement from the circuit court. Witnesses who are subpoenaed shall receive the same fees and reimbursement for mileage as in civil actions.

### **30-162 Appeals**

Any permit applicant or permittee, or person subject to Ordinance requirements, aggrieved by a permit or enforcement decision of the Administrator may file an appeal with the Salem Circuit Court if allowed by state law.

### **Sections 30-163 – 30-180 Reserved**