ORDINANCE NO. 1662

STORMWATER MANAGEMENT ORDINANCE
CITY OF RADFORD, VIRGINIA

BE IT ORDAINED by the City Council of the City of Radford, Virginia that a new Chapter 32, entitled, "Stormwater Management", is hereby adopted and added to the Radford City Code of Ordinances, and this Stormwater Management Ordinance is hereby adopted to be effective in the City of Radford, Virginia as of July 1, 2014, as follows:

CHAPTER 32
STORMWATER MANAGEMENT

Section 32-1. Purpose and Authority; Title.

(a) Pursuant to § 62.1-44.15:27 of the Code of Virginia, the City of Radford, Virginia hereby establishes a Virginia Stormwater Management Program (VSMP) for land disturbing activities and adopts the applicable Regulations that specify standards and specifications for VSMPs promulgated by the State Water Control Board (State Board) for the purposes as set out in this Section of this Chapter.

(b) This Chapter is adopted as part of an initiative to establish and integrate the City of Radford's Code of Ordinances, Chapter 31- Erosion and Sediment Control; flood insurance, and flood plain management 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 inspections and enforcement activities into a more convenient and efficient manner for both the City of Radford and those responsible for compliances with these programs.

(c) The purpose of this Chapter is to ensure the general health, safety, and welfare of the citizens of the City of Radford, Virginia, 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.

(d) This Chapter is adopted pursuant to §62.1-44.15:24 et seq. of Chapter 3.1 of Title 62.1 of the Code of Virginia.

(e) This Chapter shall be known and may be cited as the "Stormwater Management Ordinance of the City of Radford, Virginia", or as the "Stormwater Management Ordinance",

Section 32-2. Definitions.

In addition to the definitions set forth in 9VAC25-870-10 of the Virginia Stormwater Management Regulations, as amended, and in Chapter 3.1 of Title 62.1 of the Code of Virginia, and any amendments thereunto, which are expressly adopted herein and incorporated herein by

reference and made a part hereof, the following words and terms as used in this Chapter have the following meanings unless otherwise specified herein. Where definitions differ, those incorporated herein shall have precedence.

"*Act*" means the Virginia Stormwater Management Act, Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.

"*Administrative Guidance Manual*" means the City of Radford Administrative Guidance Manual, which is a documentation of policies and procedures for documentation and calculations verifying compliance with the water quality and quantity requirements, review and approval of Stormwater Pollution Prevention Plans and Stormwater Management Plans, site inspections, obtaining and releasing bonds, reporting and recordkeeping, and compliance strategies for reviews, enforcement, and long-term maintenance and inspection programs.

"Administrator" means the Virginia Stormwater Management Program (VSMP) authority for the City of Radford staff person or department responsible for administering the VSMP on behalf of the City. Or the duly authorized agent or designee of the Administrator. The Administrator for the City is the City Engineer.

"Agreement in lieu of a stormwater management plan" means a contract between the VSMP authority and the owner or permittee that specifies methods that shall be implemented to comply with the requirements of a VSMP for the construction of a single-family residence; such contract may be executed by the VSMP authority in lieu of a stormwater management plan.

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

"*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 State Water Control Board.

"*Building Code of Appeals Board*" means the Building Code of Appeals Board of the City.

"*Channel*" means a natural or manmade waterway. Means a natural or manmade waterway

"City" means the City of Radford, Virginia.

"*City Council*" means the City Council of the City of Radford, Virginia.

"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 difference schedules. For the purpose of this Ordinance, the term shall not include individual lots within existing residential, commercial or industrial site plans and subdivision plans that were platted prior to July 1, 2004, and which are considered separate land-disturbing activities.

"*Comprehensive stormwater management facility*" or "*comprehensive facility*" means a facility or series of facilities designed to control stormwater runoff from a specific watershed, although only portions of the watershed may experience development.

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

"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 Department of Environmental Quality.

"Director" means the Director of the 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.

"*Erosion and Sediment control plan*" means a plan to control soil erosion and prevent sediment from leaving the construction site.

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

"General permit" means the state permit titled, GENERAL PERMIT FOR DISCHARGES OF STORMWATER FROM CONSTRUCTION ACTIVITIES found in Part XIV (9VA25-880-1 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-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 exemptions specified in Section 32-9 of this Chapter.

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

"*Local stormwater management program*" or "*local program*" means a statement of the various methods adopted pursuant to the Act, and implemented by the City to manage the runoff from land disturbing activities and shall include an ordinance with provisions to require the control of after development stormwater runoff rate of flow, water quality, the proper maintenance of stormwater management facilities, and minimum administrative procedures consistent with this Chapter.

"*Maintenance agreement*" means a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management facilities.

"*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 Environmental Protection Agency (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.

"*Municipal separate storm sewer*" means a conveyance or system of conveyances otherwise known as a municipal separate storm sewer system or "MS4", including roads with drainage systems, municipal streets, cat basins, curbs, gutters, ditches, man-made channels, or storm drains:

(a) Owned or operated by a federal, state, city, town, county, district, association, or other public body, created by or pursuant to state law, including the City, having jurisdiction or delegated authority for erosion and sediment control and stormwater management, or a designated and approved management agency under § 208 of the CWA that discharges to surface waters;

(b) Designed or used for collecting or conveying stormwater;

(c) That is not a combined sewer; and

(d) That is not part of a publicly owned treatment works.

"*Municipal Separate Storm Sewer System Management Program*" means a management program covering the duration of a state permit for a municipal separate storm sewer system, including the City, that includes a comprehensive planning process that involves public

participation and intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent practicable, to protect water quality, and to satisfy the appropriate water quality requirements of the CWA and regulations, and this Chapter and the attendant Regulations, using management practices, control techniques, and system design and engineering methods, and such other provisions that are appropriate.

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

"Off-site facility" means a stormwater management measure located outside the subject property boundary described in the permit application for land development activity.

"On-site facility" means a stormwater management measure located within the subject property boundary described in the permit application for land development activity.

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

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

"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 Chapter, and which may only be issued after evidence of general permit coverage, if such statement is required, has been provided by the Department, where applicable.

"Permittee" means the person to which the permit or state permit is issued.

"Person" means any individual, corporation, partnership, firm, association, state, municipality, 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 of Virginia, a state, governmental body, including federal, state, or local entity as applicable, any interstate body or any other legal entity.

"*Pollution Prevention Plan*" or "*PPP*" means a document(s) that is prepared in accordance with good engineering practices and that details the design, installation, implementation and maintenance of effective pollution prevention measures to minimize the discharge of pollutants.

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

"Pre-development" refers to the conditions that exist at the time that plans for the land development of a tract of land are submitted to the VSMP authority. Where phased development or plan approval occurs (preliminary grading, demolition of existing structures, road and utilities,

etc.), the existing conditions at the time prior to the first item being submitted shall establish predevelopment conditions.

"*Redevelopment*" means the process or developing land that is or has been previously developed.

"Regulations" mean the Virginia Stormwater Management Program (VSMP) Regulations (9VAC25-870-10, et seq., as amended).

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

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

"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 of the Commonwealth of Virginia.

"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, if such permit is required, or an approval issued by the Board for stormwater discharges from an MS4. Under these state permits, the Commonwealth of Virginia imposes and enforces requirements pursuant to the Federal Clean Water Act and regulations, and the Virginia Stormwater Management Act and the attendant 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 of Virginia or within its jurisdiction, including wetlands.

"Stop work order" means an order issued which requires that all construction activity on a site be stopped.

"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 facility" means a device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release, or the velocity of flow.

"Stormwater management" means the use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and /or peak flow discharge rates.

"Stormwater management plan" means a document(s) contacting material describing methods for complying with the requirements of a Virginia Stormwater Management Program (VSMP).

"Stormwater Pollution Prevention Plan" or *"SWPPP"* means a document(s) 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 Chapter. In addition, the document(s) 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 and has the same definition as set forth in the Subdivision Ordinance of the City of Radford, as defined in Chapter 95, Subdivision of Land, in the Radford City Code of Ordinances.

"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.

"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, and which is incorporated herein by reference into this Chapter, and made a part hereof.

"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 Handbook*" means the policy, criteria and pertinent information that provides general guidance for compliance with the Act and the associated regulations and is developed by the Department, or any revisions thereunto for the Virginia Stormwater Management Program or VSMP, including specifications and standards of the Act and the Regulations of the Virginia Stormwater Management Handbook ("Handbook") for the proper implementation of the requirements of this Chapter, the Act and the Regulations. All references to the Handbook shall mean the most current edition and amendments of the Department. The Handbook includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater management practice. Stormwater

treatment practices that are designed and constructed in accordance with the design and sizing criteria will be presumed to meet the minimum water quality performance standards.

"Virginia Stormwater Management Program" or *"VSMP"* means the program established by the City to manage the quality and quantity of runoff resulting from land-disturbing activities in accordance with state law, and which has been approved by the State Board.

"Virginia Stormwater Management Program authority" or "*VSMP authority"* means the City of Radford.

"*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.

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

Section 32-3. Stormwater Permit Requirements; 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 off this Chapter.

(b) Notwithstanding any other provisions of this Chapter, 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 (1) 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 (1) acre of land that are not part of a larger common plan of development or sale that is one (1) 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;

(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 7 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.

Section 32-4. Stormwater Management Program Established; Submission and Approval of Plans; Prohibitions.

(a) Pursuant to §64.1-44.15:27 of the Code of Virginia, the City of Radford, Virginia hereby establishes a Virginia Stormwater Management Program (VSMP) for land-disturbing activities and adopts the applicable Regulations that specify standards and specifications for VSMP's promulgated by the State Board for the purposes set out in Section 32-1 of this Chapter. The City Council hereby designates the City Engineer as the Administrator of the Virginia Stormwater Management Program (VSMP) for the City.

(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; if such statement is required (Code of Virginia 62.1-44.15:28 A 8);

(2) An erosion and sediment control plan approved in accordance with the City's Code of Ordinances, Chapter 31- Erosion and Sediment Control;

(3) A stormwater management plan or an agreement in lieu of stormwater management plan that meets the requirements of Section 32-6 of this Chapter.

(c) No VSMP authority permit shall be issued until evidence of general permit coverage is obtained, where it is required.

(d) No VSMP authority permit shall be issued until the fees required to be paid pursuant to Section 32-15 of this Chapter are received, and a reasonable performance bond if required pursuant to Section 32-16 of this Chapter 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.

Section 32-5. Stormwater Pollution Prevention Plan; Contents of Plan

(a) The Stormwater Pollution Prevention Plan (SWPPP) shall include the content specified by Section 9VAC25-870-54, including, but not limited to, an approved erosion and sediment control plan, an approved stormwater management plan, pollution prevention plan and additional control measures necessary to address a TMDL, 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 9VAC25-880-70, Section II [Stormwater Pollution Prevention Plan], Section II of the general permit, either electronically or in hard copy.

Sec. 32-6. Stormwater Management Plan; Contents of Plan.

(a) A Stormwater Management Plan, required in Section 32-1 of this Chapter shall apply the stormwater management technical criteria set forth in Section 32-9 of this Chapter and in the Regulations to the entire land-disturbing activity to ensure stormwater management plans for residential, commercial or industrial subdivisions shall govern the development of individual parcels, including those under subsequent owners. 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 subsurface runoff, and shall 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 pre-development and post-development drainage areas;

(2) Contact information including the name, address, telephone number of the owner, 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 and a certification that states the stormwater management meets the requirements set forth in the VSMP Permit Regulations (9VAC25-870-55), the Handbook, and the Administrative Guidance Manual;

(5) Information on the proposed stormwater management facilities, including:

(i) The type of facilities;

(ii) Location, including geographic coordinates;

(iii) Acres treated;

(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 the Regulations and Section 32-9 of this Chapter, the Handbook, and the Administrative Guidance Manual; and

(8) 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) 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 32-9 of this Chapter 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.

(1) If an Agreement in lieu of a stormwater management plan is executed, a stormwater pollution prevention plan is still required; however, the Administrator may waive the requirement of the plan to be signed and sealed by a professional engineer, architect, surveyor or landscape architect 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.

(1) If an Agreement in lieu of a stormwater management plan is executed, a construction recorded drawing is still required; however, the Administrator

may waive the certification by a professional engineer, architect, surveyor or landscape architect 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.

Section 32-7. Pollution Prevention Plan; Contents of Plans.

(a) A Pollution Prevention Plan, as required and in compliance with 9VAC25870-56, 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 as required by 9VAC25-870-56 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, required by 9VAC25-870-56, 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.

Section 32-8. 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 32-6 of this Chapter, 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 completeness is not made within the time prescribed in Subdivision (1), then the plan shall be deemed complete and the Administrator shall have 60 calendar days from the date of submission to review the plan;

(3) For plans not approved by the Administrator, all comments shall be addressed by the Applicant within 180 calendar days. Plans that are not resubmitted within this time period will be subject to a new application fee;

(4) The Administrator shall review any plan that has been previously disapproved, within 60 calendar days of the date of resubmission;

(5) 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 their 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 Chapter, the Handbook, and the Administrative Guidance Manual;

(6) If a plan meeting all requirements of this Chapter is submitted and no action is taken within the time provided above in Subdivision (2) for review, the plan shall be deemed approved; and

(b) Approved stormwater management 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 32-10 (b).

Section 32-9. Technical Criteria for Regulated Land Disturbing Activities.

(a) To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, the City hereby adopts the technical criteria for regulating land-disturbing activities set forth in Part II B of the Regulations, as amended, expressly to include the requirements of 9VAC25-870-62 thru 99 and 9VAc25-870-48 [Grandfathering] of the Regulations, including 9VAC25-870-62 [Applicability]; 9VAC25-870-63 [Water Quality Design Criteria Requirements]; 9VAC25-870-65 [Water Quality Compliance]; 9VAC25-870-66 [Water Quantity Requirements]; 9VAC25-870-69 [Offsite Compliance Options]; 9VAC25-870-72 [Design storms and hydrologic methods]; 9VAC25-870-74 [Stormwater Harvesting]; 9VAC24-870-76 [Linear Development Project]; 9VAC25-870-85 [Stormwater Management Impoundment Structures or Facilities]; and 9VAC25-870-92 [Comprehensive Stormwater Management Plans]; 9VAC25-870-93 [Definitions]; 9VAC25-870-94 [Applicability]; 9VAC25-870-95 [General Requirements]; 9VAC25-870-96 [Water Quantity]; 9VAC25-870-97 [Stream Channel Erosion]; 9VAC25-870-98 [Flooding]; and 9VAC25-870-99 [Regional Watershed-Wide Stormwater Management Plans], which shall apply to all land disturbing activities regulated pursuant to this Chapter and the Regulations, except as expressly set forth in this Section as provided for in 9VAC25-870-48 [Grandfathering].

(b) Any land-disturbing activity shall be considered grandfathered by the VSMP Authority and shall be subject to the Part II C (VAC25-870-93 et seq.) technical criteria of the VSMP Regulation and this Chapter provided:

(1) A proffered or conditional zoning plan, zoning with a plan of development, preliminary or final subdivision plat, preliminary or final site plan, or any document determined by the City to be equivalent thereto (i) was approved by the City prior to July 1, 2012, (ii) provided a layout as defined in 9VAC25-870-10, (iii) will comply with the Part II C technical criteria of this Chapter, and (iv) has not been subsequently modified or amended in any manner resulting in an increase in the amount of phosphorus leaving each point of discharge, and such that there is no increase in the volume or rate of runoff;

(2) A state permit has not been issued prior to July 1, 2014; and

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

(c) Locality, state, and federal projects shall be considered grandfathered by the VSMP authority and shall be subject to the Part II C technical criteria of the Regulations and this Chapter provided:

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

(2) A state permit has not been issued prior to July 1, 2014; and

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

(d) Land disturbing activities grandfathered under subsections (b) and (c) of this Section, shall remain subject to the Part II C technical criteria of the VSMP Regulation for one additional state permit cycle. After such time, portions of the project not under construction shall become subject to any new technical criteria adopted by the Board.

(e) In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012, such project shall be subject to the technical criteria of Part II C.

(f) Nothing in this Section shall preclude an operator from constructing to a more stringent standard at his discretion.

(g) The Administrator may grant exceptions to the technical requirements of Part II B and 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 Chapter 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 Chapter

(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.

(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.

Section 32-10. 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, if such a permit is required, 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 Section 32-10(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.

Section 32-11. Monitoring and Inspections.

(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 has the right, 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. In the event the Administrator, or his agent shall be denied access to property, the Administrator may present sworn testimony

to a magistrate or court of competent jurisdiction and if such sworn testimony establishes probable cause that a violation of this ordinance has occurred, request that the magistrate or court grant the Administrator an inspection warrant to enable the director of utilities or his agent to enter the property for the purpose of determining whether a violation of this ordinance exists. The Administrator shall make a reasonable effort to obtain consent from the owner or occupant of the subject property prior to seeking the issuance of an inspection warrant under this section. It shall be a violation of this section for any person to deny the Administrator access to any property after the director of utilities or his agent has obtained an inspection warrant from a magistrate or a court of competent jurisdiction for the inspection of such property. Nothing herein shall be construed to authorize Administrator to enter or inspect the interior portions of any dwelling or structure situated on such property unless that inspection is deemed to be reasonably necessary and directly related to verifying the presence and character of a stormwater control mitigation system or control measure that the owner of the property claims to be installed therein.

(c) In accordance with a performance bond, 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. Refer to § 62.1-44.15:40 regarding protection of specified confidential information.

(e) Post-construction inspections of stormwater management facilities required by the provisions of this Ordinance and the recorded maintenance agreement shall be conducted by the Owner and at the Owner's cost pursuant to the City of Radford's adopted and State Board approved inspection program, and shall occur within the minimum frequencies shown in Table 1-11-1 following approval of the final construction record report for each stormwater facility.

Table 32-11-1

BMP Classification	BMP Type	Minimum Inspection Schedule	Notes
1	Rooftop Disconnection	Every 5 Years	Owner shall inspect and provide documentation as per the requirements found on the Virginia Stormwater BMP Clearinghouse Website and the Administrative Guidance Manual for BMPs within classification 2, 3, and 4. The City of Radford shall inspect all BMPs every 5 years.
1	Sheetflow to Vegetated Filter or Conserved Open Space	Every 5 Years	
1	Grass Channel	Every 5 Years	
1	Soil Amendments	Every 5 Years	
2	Permeable Pavement	Annually	
2	Infiltration	Annually	
2	Bioretention	Annually	
2	Dry Swale	Annually	
2	Wet Swale	Annually	
2	Filtering Practice	Annually	
2	Constructed Wetland	Annually	
2	Wet Pond	Annually	
2	Extended Detention	Annually	
3	Vegetated Roof	Twice per year (Spring/Fall)	
3	Rainwater Harvesting	Twice per year (Spring/Fall)	
4	Manufactured/ Other BMP	Yearly or per manufacturer recommendations, whichever is more frequent.	Owner shall inspect and provide documentation according to manufacturer's guidelines and the Administrative Guidance Manual.

(f) The owner shall furnish to the Administrator an inspection report for BMPs within classifications 2, 3, and 4 as provided in Table 1-11-11 prepared by a qualified inspector within the timeframe listed in Table 1-11-1. This report shall include, but not be limited to, the items listed in Table 1-11-1, current photographs of the BMP, and a summary of the current BMP condition and any recommendations for improvements, if necessary.

(g) Qualified inspection personnel include professional engineer, architect, landscape architect, or land surveyor registered in the Commonwealth of Virginia or project

inspector for SWM or combined administrator for SWM who have met the certification requirements of 9VAC25-850-50.

(h) Post-construction inspections of stormwater management facilities required by the provisions of this Ordinance shall be conducted by the Administrator pursuant to the City of Radford's adopted and State Board approved inspection program, and shall occur, at a minimum, at least once every five (5) years.

Section 32-12. Hearings.

(a) Any permit Applicant or Permittee, or Person subject to the requirements of this Chapter, aggrieved by any action of the City taken without a formal hearing, or by inaction of the City, may demand in writing a formal hearing by the City, provided a petition requesting such hearing is filed with the Administrator within thirty (30) days after the Administrator gives written notice of such action.

(b) The hearing held under this Section shall be conducted by the Building Code Board of Appeals for the City, at a regular or special meeting of the Building Code Board of Appeals, or by at least one member of the Building Code Board of Appeals designated by the Building Code Board of Appeals to conduct such hearings on behalf of the Building Code Board of Appeals at any other time and place authorized by the Building Code Board of Appeals. The hearings shall comply with the requirements of § 62.1-44.26A-C of the Code of Virginia.

(c) A verbatim record of the proceedings of such hearing shall be taken, at the requester's expense, and filed with the Building code Board of Appeals for the City by the permit applicant or permittee. Depositions may be taken and read as in actions at law.

(d) The Building Code Board of Appeals, or its designed 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 Building Code Board of Appeals, or its designated member, whose action may include the procurement of an order of enforcement from the Circuit Court of the City of Radford.

Section 32.13. Appeals.

(a) Pursuant to § 62.1-44.15:56, decisions made by the Building Code Board of Appeals pursuant to this Chapter may be appealed to the Circuit Court of the City of Radford, provided any such appeal is filed with the Circuit Court 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.

Section 32-14. Enforcement.

(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, the Person conducting the land disturbing activities without an approved plan or required permit to cease all land disturbing until the violation of the permit has ceased, or an approved plan and required permits are obtained, and specific corrective measures are have been completed.

Such orders shall be issued in accordance with the City's procedures. Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to the address specified in the land records of the City, 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 watershed of the Commonwealth of Virginia 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 subsection 32-14(c).

(a) In addition to any other remedy provided by this Chapter, if the Administrator determines that there is a failure to comply with the provisions of this Chapter, the Administrator may initiate such informal and/or formal administrative enforcement procedures in a manner authorized by this Chapter, the City of Radford Code of Ordinances, and any applicable City policies or procedures. Such measures include, but are not limited to:

(b) 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 or any other part of this Chapter may be compelled in a proceeding instituted in the Circuit Court of the City of Radford to obey the same and to comply therewith by injunction, mandamus or other appropriate remedy.

(c) Any person who violates any provision of this Chapter or who fails, neglects, or refuses to comply with any order of the Administrator or the City, shall be subject to a civil penalty not to exceed $32,500.00 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 Stormwater Pollution Prevention Plan (SWPPP);

(iii) Incomplete Stormwater Pollution Prevention Plan (SWPPP);

(iv) Stormwater Pollution Plan (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

(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 Section, the court may consider the degree of harm caused by the violation and also the economic benefit to the violator from noncompliance; and

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

(d) Notwithstanding any other civil or equitable remedy provided by this Section or by law, any person who willfully or negligently violates any provision of this Chapter, 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 $2,500.00 nor more than $32,500.00 or both.

(e) Holds on occupation permits. Occupation permits and/or inspection 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 permit requirements, and accepted by the City.

Section 32-16. Fees.

(a) 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 the appropriate fee schedule established, updated and revised from time to time by the City Council by resolution and as provided in the Administrative Guidance Manual. VSMP costs include City costs associated with stormwater management plan review, VSMP registration statement review, permit issuance, state coverage verification, inspection, reporting, and compliance activities associated with land-disturbing activities, as well as state program oversight costs.

(b) Fees for providing coverage under the General Permit for Discharges of Stormwater from construction activities shall be imposed in accordance with the appropriate fee schedule established, as provided in the Administrative Guidance Manual, updated and revised from time to time by the City Council by resolution. Fifty percent (50%) of the total fee shall be paid by the applicant at the time that a stormwater management plan, or agreement in lieu of a stormwater management plan, is submitted for review. The remaining total fee is to be paid by the applicant prior to issuance of coverage under the General Permit for Discharges of Stormwater from Construction Activities.

(c) 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 in accordance with the disturbed acreage of their site or sites according to the fee schedule established, revised and updated from time to time by the City Council by resolution, as provided in the Administrative Guidance Manual.

(d) Fees for the modification or transfer of registration statements from the general permit issued by the State Board shall be imposed in accordance with the fee scheduled established, revised and updated from time to time by the City Council by resolution, as provided in the Administrative Guidance Manual. If the permit modifications result in changes to stormwater management plans that require additional review by the City, such reviews shall be subject to the fee schedule established by the City Council, as amended. 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 accordance with the fee schedule established, revised and updated from time to time by the City Council by resolution.

(e) General permit maintenance fees: Annual permit maintenance fees required by 9VAC25-870-830 shall be imposed in accordance with the fee schedule established, revised and updated from time to time by the City Council by resolution, including fees imposed on expired general permits that have been administratively continued. These fees are provided in the Administrative Guidance Manual. With respect to the general permit, these fees shall apply until the permit coverage is terminated. General permit coverage maintenance fees, for permits issued in a previous calendar year, shall be paid by April 1st of each year that it is in effect. 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.

(f) 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.

(g) No permit application fees will be assessed to:

(1) Applicants who request a permit for a detached single-family home construction within or outside of common plan of development or sale with a land-disturbing activity less than five (5) acres.

(2) Permittees who request minor modifications to permits as defined in Section 32- 2 of this Chapter. 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.

(3) Permittees whose permits are modified or amended at the initiative of the Department or Administrator, excluding errors in the requisition statement identified by the Administrator or errors related to the acreage of the site.

(h) All incomplete payments will be deemed as nonpayment, 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 ten percent (10%) late payment fee shall be charged to any delinquent (over 90 days past due) account. The City shall be entitled to all remedies available under the Code of Virginia in collecting any past due amount.

Section 32-17. Performance Bond.

Prior to issuance of any permit, the Applicant shall be required to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the Administrator and the City Attorney, to ensure that

measures could be taken by the City at the Applicant's expense should Applicant 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 the Applicants land disturbing activity. If the City takes such action upon such failure by the Applicant, the City 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.

EFFECTIVE DATE OF THIS ORDINANCE: October 27, 2014

First Reading: June 9, 2014

Motion:	Mr. Nicholson	
Second:	Mr. Marshall	
Recorded Vote:	Dr. Harshberger:	Yes
	Mr. Marshall:	Yes
	Mr. Nicholson:	Yes
	Mr. Cox:	Yes
	Mayor Brown:	Yes

Second Reading: October 27, 2014

Motion:	Mr. Nicholson	
Second:	Mr. Marshall	
Recorded Vote:	Dr. Harshberger:	Absent
	Mr. Marshall:	Yes
	Mr. Nicholson:	Yes
	Mr. Turk:	Yes
	Mayor Brown:	Yes

ATTEST: Melissa A. Skelton
Melissa A. Skelton, City Clerk