

# Northampton County Stormwater Management Ordinance

## Draft for Board of Supervisors Review

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**Virginia Coastal Zone**  
MANAGEMENT PROGRAM



# Northampton County Stormwater Management Ordinance

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### Introduction

#### Section 1. General Provisions

##### 1.1. Statutory Authority

The Virginia Stormwater Management Law (“Law”), Title 10.1, Chapter 6, Article 1.1 of the Code of Virginia, enables localities to adopt, by ordinance, a stormwater management program consistent with state regulations promulgated pursuant to the Law. Virginia Code §10.1-603.3 (A) requires that Northampton County, located in Tidewater Virginia as defined by the Chesapeake Bay Preservation Act (§10.1-2100 et seq.), adopt a local stormwater management program for land disturbing activities consistent with state regulations.

##### 1.2. Purpose

The purpose of this ordinance is to establish minimum stormwater management requirements and controls to protect properties, safeguard the general health, safety, and welfare of the public residing in watersheds within this jurisdiction, and protect aquatic resources. This ordinance seeks to meet that purpose through the following objectives:

1. Require that development maintain the after-development runoff characteristics, as nearly as practicable, as the pre-development runoff characteristics in order to reduce flooding, siltation, stream bank erosion, and property damage;
2. Establish minimum design criteria for the protection of properties and aquatic resources downstream from development from damages due to increases in volume, velocity, frequency, duration, and peak flow rate of storm water runoff;

3. Establish minimum design criteria for measures to minimize non-point source pollution from stormwater runoff, which would otherwise degrade water quality;
4. Establish provisions for the long-term responsibility for and maintenance of stormwater management control devices and other techniques specified to manage the quality and quantity of runoff; and
5. Establish certain administrative procedures for the submission, review, approval, and disapproval of stormwater plans, and the inspection of approved projects.

### **1.3. Applicability**

This ordinance shall be applicable to all subdivision, site plan, or plan of development, applications, unless eligible for a waiver as determined by the Northampton County Department of Planning & Zoning (the Department) under the specifications of Section 4 of this ordinance. The ordinance also applies to development 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 development activities may take place at different times on different schedules.

To prevent the adverse impacts of stormwater runoff, the Department has developed a set of performance standards that must be met at development sites. These standards apply to any development disturbing 2,500 square feet or more of land.

Notwithstanding any other provisions of this ordinance, the following activities are exempt from these stormwater performance criteria:

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;
3. Single-family residences separately built and not part of a subdivision, including additions or modifications to existing single-family detached residential structures;
4. Linear development projects, provided that (i) less than 2,500 square feet of land will be disturbed per outfall or watershed, (ii) there will be insignificant increases in peak flow rates, and (iii) there are no existing or anticipated flooding or erosion problems downstream of the discharge point; and
5. Redevelopment.

#### **1.4. Compatibility with Other Permit and Ordinance Requirements**

This ordinance 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 ordinance should be considered minimum requirements, and where any provision of this ordinance 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.

#### **1.5. Severability**

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

#### **1.6. Stormwater Management Handbook**

The Department will utilize the policy, criteria and information including specifications and standards of the Virginia Stormwater Management Handbook, for the proper implementation of the requirements of this ordinance. This Handbook includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. The Handbook may be updated and expanded from time to time, based on improvements in engineering, science, monitoring and local maintenance experience. Stormwater treatment practices that are designed and constructed in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards.

### **Section 2. Definitions:**

**“Accelerated Erosion”** means erosion caused by development activities that exceeds the natural processes by which the surface of the land is worn away by the action of water, wind, or chemical action.

**"Act"** means Article 1.1 (§ 10.1-603.3 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia.

**“Adequate Channel”** means a channel with a defined bed and banks, or an otherwise limited flow area that will convey the designated frequency storm event without overtopping the channel banks, nor cause erosive damage to the channel bed or banks.

**“Applicant”** means any person submitting a stormwater management plan for approval.

**“Aquatic Bench”** means a 10- to 15- foot wide bench around the perimeter of a permanent pool that ranges in depth from zero to 12 inches. Vegetated with emergent plants, the bench augments pollutant removal, provides habitats, conceals trash and water level fluctuations, and enhances safety.

**“Average Land Cover Condition”** means a measure of the average amount of impervious surfaces within a watershed, assumed to be 16 %. Note that a locality may opt to calculate actual watershed-specific values for the average land cover condition based upon 4VAC 3-20-101.

**“Best Management Practice (BMP)”** means a practice, or combination of practices, structural or nonstructural, which is designed to minimize the impacts of development on surface and groundwater systems and is determined by a state or designated area-wide planning agency to be the most effective, practical means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

**“Bioretention Basin”** means a water quality BMP engineered to filter the water quality volume through an engineered planting bed, consisting of a vegetated surface layer (vegetation, mulch, and ground cover), planting soil, and sand bed, and into the in-situ material.

**“Bioretention Filter”** means a bioretention basin with the addition of a sand filter collection pipe system beneath the planting bed.

**“Board”** means the Virginia Soil and Water Conservation Board.

**“Building”** means any structure used or intended for supporting or sheltering any use or occupancy for persons, animals, or property of any kind.

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

**“Constructed Wetlands”** means areas intentionally designed and created to emulate the water quality improvement function of wetlands for the primary purpose of removing pollutants from stormwater.

**“Dedication”** means the deliberate appropriation of property by its owner for general public use.

**“Department”** means the Northampton County Planning and Zoning Department which is responsible for determining the adequacy of a submitted stormwater management plan on unit or units of lands, for approving plans and issuing permits.

**“DCR”** means the Virginia Department of Conservation and Recreation.

**“Detention”** means the temporary storage of storm runoff in a stormwater management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

**“Detention Facility”** means a detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

**“Developer”** means a person having legal title to any tract of land or parcel or having authority to act for such person regarding the development or proposed development of property and or the undertaking of land disturbance activities.

**“Development”** means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations, or storage of equipment or materials; that potentially changes its runoff characteristics.

**“Drainage Easement”** means a legal right granted by an owner to a grantee allowing the use of private land for stormwater management purposes.

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

**“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, causing or threatening damage.

**“Grassed Swale”** means an earthen conveyance system which is broad and shallow with erosion resistant grasses and check dams, engineered to remove pollutants from stormwater runoff by filtration through grass and infiltration into the soil.

**“Hotspot”** means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. Hot Spots are classified in Table 2-4 of the Virginia Stormwater Management Handbook.

**“Hydrologic Soil Group (HSG)”** means a Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from A soils, with high permeability and little runoff production, to D soils, which have low permeability rates and produce much more runoff.

**“Impervious Cover”** means a surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces shall include, but are not limited to: roofs, buildings, streets, parking areas and any concrete, asphalt, shell, stone or gravel surface. Impervious surfaces shall not include any pervious paving; engineered, pre-manufactured or otherwise; that have a twelve percent or greater void ratio as certified by a Virginia professional engineer and as approved by the Northampton County Department of Planning and Zoning.

**“Industrial Stormwater Permit”** means a National Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries, which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

**“Infiltration”** means the process of percolating stormwater into the subsoil.

**“Infiltration Facility”** means any structure or device designed to infiltrate retained water to the subsurface. These facilities may be above grade or below grade.

**“Land Disturbance Activity”** means any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface and or any land change which may result in soil erosion from water or wind and the movement of sediments into State waters or onto lands in the Commonwealth including, but not limited to, clearing, grading, excavating, transporting and filling of land, except that the term shall not include:

- a. Minor land-disturbing activities such as: (1) bona fide and continuous home gardens, (2) individual home landscaping, (3) home repairs and (4) home maintenance work;
- b. Individual service connections;
- c. Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk provided such land-disturbing activity is confined to the area of the road, street or sidewalk which is hard-surfaced;
- d. Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;
- e. Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations; including engineering operations and agricultural engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the Dam Safety Act, Article 2, (Sec. 10.1-604 et seq.) of Chapter 6, 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 (Sec. 10.1-1100 et seq.) of this title or is converted to bona fide agricultural or improved pasture use as described in Subsection B of Sec. 10.1-1163;
- f. Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;
- g. Disturbed land areas of less than 2,500 square feet in size;

- h. Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
- i. Shoreline erosion control projects on tidal waters when all of the land disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this ordinance; and
- j. Emergency work to protect life, limb or property, and emergency repairs; provided that if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the plan-approving authority.

**“Linear Development Project”** means a development project that is linear in nature such as, but not limited to, (i) the construction of water, sewer, electric and telephone utility lines, and natural gas pipelines; (ii) construction of tracks, rights-of-way, bridges, communication facilities and other related structures of a railroad company; and (iii) publicly funded highway construction projects.

**“Local Stormwater Management Program” or “Local Program”** means a statement of the various methods adopted pursuant to the Act and implemented by a locality to manage the runoff from development projects 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.

**“Locality”** means a county, city, or town.

**“Maintenance Agreement”** means a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.

**“Nonpoint Source (NPS) Pollution”** means pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

**“Nonpoint Source Pollutant Runoff Load” or “Pollutant Discharge”** means the average amount of a particular pollutant measured in pounds per year, delivered in a diffuse manner by stormwater runoff.

**“Nontidal Wetlands”** means those wetlands other than tidal wetlands that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U.S. Environmental Protection Agency pursuant to § 404 of the Federal Clean Water Act (being 33 U.S.C. § 1344), in 33 C.F.R. § 328.3b, dated November 13, 1986.

**“Off-Site Facility”** means a stormwater management measure located outside the subject property boundary described in the permit application for development activity.

**“On-Site Facility”** means a stormwater management measure located within the subject property boundary described in the permit application for development activity.

**"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.

**“Percent Impervious”** means the impervious area within the site divided by the area of the site multiplied by 100.

**“Person”** means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the Commonwealth, any interstate body or any other legal entity.

**“Planning Area”** means a designated portion of the parcel on which the development project is located. Planning areas shall be established by delineation on a master plan. Once established, planning areas shall be applied consistently for all future projects.

**“Post-development”** refers to conditions that reasonably may be expected or anticipated to exist after completion of the 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 development of a tract of land are approved by the Department. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first item being approved or permitted shall establish pre-development conditions.

**"Program Authority"** means Northampton County which has adopted a stormwater management program which has been approved by the Virginia Soil and Water Conservation Board.

**“Recharge”** means the replenishment of underground water reserves.

**“Redevelopment”** means the process of developing land that is or has been previously developed that does not involve a net increase in site imperviousness.

**“Retail Vehicle Fueling Station”** means a retail establishment open to the general and travelling public, whose primary business purpose is to dispense fuel to motor vehicles which can also include convenience-type stores and may include automobile servicing and repair.

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

**“Sand Filter”** means a contained bed of sand, which acts to filter the first flush of runoff. The runoff is then collected beneath the sand bed and conveyed to an adequate discharge point or infiltrated into the in-situ soils.

**“Seasonal High Water Table (S. H. W. T.)”** means the shallowest depth to free water that stands in an unlined borehole or where the soil moisture tension is zero for a period long enough for anaerobic condition to affect soil color. S. H. W. T. indicators include soil color analysis and direct measurement during the months from January to April.

**“Shallow Marsh”** means a zone within a stormwater extended detention facility that exists from the surface of the normal pool to a depth of six to 18 inches, and has a large surface area and, therefore requires a reliable source of baseflow, groundwater supply, or a sizeable drainage area to maintain the desired water surface elevations to support emergent vegetation

**“Site”** means the parcel of land being developed, or a designated planning area in which the development project is located.

**“State Waters”** means all waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdiction.

**“Stop Work Order”** means an order issued which requires that all construction activity on a site be stopped.

**“Stormwater Detention Basin” or “Detention Basin”** means a stormwater management facility which temporarily impounds runoff and discharges it through a hydraulic outlet structure to a downstream conveyance system. While a certain amount of outflow may also occur via infiltration through the surrounding soil, such amounts are negligible when compared to the outlet structure discharge rates and are, therefore, not considered in the facility’s design. Since a detention facility impounds runoff only temporarily, it is normally dry during non-rainfall periods.

**“Stormwater Extended Detention Basin” or “Extended Detention Basin”** means a stormwater management facility, which temporarily impounds runoff and discharges it through a hydraulic structure over a period of time to a downstream conveyance system for the purpose of water quality enhancement or stream channel erosion control. While a certain amount of outflow may also occur via infiltration through the surrounding soil, such amounts are negligible when compared to the outlet structure discharge rates and, therefore, are not considered in the facility’s design. Since an extended detention basin impounds runoff only, temporarily, it is normally dry during non-rainfall periods.

**“Stormwater Extended Detention Basin-Enhanced” or “Extended Detention Basin-Enhanced”** means an extended detention basin modified to increase pollutant removal by providing a shallow marsh in the lower stage of the basin.

**“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 storm water runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.

**“Stormwater Management Plan” or “Plan”** means a document containing material for describing how existing runoff characteristics will be affected by a development project and methods for complying with the requirements of the local program.

**“Stormwater Retention Basin I” or “Retention Basin I”** means a retention basin with the volume of the permanent pool equal to three times the water quality volume.

**“Stormwater Retention Basin II” or “Retention Basin II”** means a retention basin with the volume of the permanent pool equal to four times the water quality volume.

**“Stormwater Retention Basin III” or “Retention Basin III”** means a retention basin with the volume of the permanent pool equal to four times the water quality volume with the addition of an aquatic bench.

**“Stormwater Retrofit”** means a stormwater management practice designed for an existing development site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.

**“Stormwater Runoff”** means flow on the surface of the ground, resulting from precipitation.

**“Stormwater Treatment Practices (STPs)”** means measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

**“Subdivision”** means the division, including re-subdivision or family subdivision, of a parent tract or the establishment of any condominium regime, resulting in two or more lots. It shall also include the vacation of plats and the adjustment of boundary lines.

**“Tidal Wetlands”** means vegetated and non-vegetated wetlands as defined in VA Code § 28.2-1300.

**“Town”** means an incorporated town in Northampton County, Virginia.

**“Vegetated Filter Strip”** means a densely vegetated section of land engineered to accept runoff as overland sheet flow from upstream development. It shall adopt any vegetated form, from grassy meadow to small forest. The vegetative cover facilitates pollutant removal through filtration, sediment deposition, infiltration and absorption, and is dedicated for that purpose.

**“Water Quality Volume (WQV)”** means the volume equal to the first ½ inch of runoff multiplied by the impervious surface of the development project.

**“Watercourse”** means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

**"Watershed"** means a defined land area drained by a river, stream, drainage ways or system of connecting rivers, streams, or drainage ways such that all surface water within the area flows through a single outlet.

**"Wetlands"** See Nontidal Wetlands and Tidal Wetlands.

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

#### **3.1. Permit Required.**

No land owner or developer shall receive any of the building, grading or other development permits required for land disturbance activities without first meeting the requirements of this ordinance prior to commencing the proposed activity.

Should a land-disturbing activity associated with an approved plan in accordance with this section not begin during the 180-day period following approval or if an approved land-disturbing activity ceases for more than 180 days, the Department will review the existing approved erosion and sediment control plan and stormwater management plan to determine whether the plans still satisfy local program requirements and to verify that all design factors are still valid. If the Department finds that the plans still satisfy all program requirements, the approval will be renewed. If the Department finds the previously filed plans to be inadequate, modified plans shall be submitted and approved prior to the resumption of land-disturbing activities.

#### **3.2. Permit Application Requirements**

Unless specifically excluded by this ordinance, any land owner or developer desiring a permit for a land disturbance activity shall submit to the Department a permit application on a form provided by the Department for that purpose.

Unless otherwise excepted by this ordinance, a permit application must be accompanied by the following in order that the permit application be considered:

1. Stormwater management plan in accordance with Section 3.3;
2. Maintenance agreement in accordance with Section 3.4;
3. Permit application and Plan review fee in accordance with Section 3.6; and
4. Performance bond if required by subsection 3.5 below.

#### **3.3. Stormwater Management Plan Required.**

No application for development or land disturbance, unless exempt, 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 be in accordance with the criteria established in this section. No subdivision plat shall be approved nor any building, grading, or sediment control permit be issued until a satisfactory final stormwater management plan, or a waiver thereof, has undergone a review and been approved by the Department after determining that the plan or waiver is consistent with the requirements of this Ordinance.

All stormwater management plans shall be appropriately sealed and signed by a professional in adherence to all minimum standards and requirements pertaining to the practice of that profession in accordance with Chapter 4 (§ 54.1-400 et seq.) of Title 54.1 of the Code of Virginia and attendant regulations certifying that the plan meets all submittal requirements outlined in this ordinance and is consistent with good engineering practice.

The stormwater management plan shall include all of the information required herein and in the Final Stormwater Management Plan checklists found in the Virginia Stormwater Management Handbook. This includes:

- A. A map (or maps) indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural stormwater management and sediment control facilities. The map(s) will also clearly show proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading; a written description of the site plan and justification of proposed changes in natural conditions may also be required.
- B. Sufficient engineering analysis to show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this ordinance and the specifications of the Virginia Stormwater Management Handbook.
- C. A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site. Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.
- D. When development requires a unified plan of development in accordance with Section 154.106 of the Northampton County Zoning Code the stormwater management plan shall consider the maximum development potential of a site under existing zoning, regardless of whether the applicant presently intends to develop the site to its maximum potential.
- E. The applicant shall be required to include in the stormwater plan measures for controlling all existing stormwater runoff discharges associated with prior development on the site in accordance with the standards of this Ordinance.

#### F. Contact Information

The name, address, and telephone number of all persons having a legal interest in the property and the county tax map number and parcel number of the property or properties affected.

#### G. Topographic Base Map

A 1" = 200' topographic base map of the site which extends a minimum of 200 feet beyond the limits of the proposed development and indicates existing surface water drainage including streams, ponds, culverts, ditches, and wetlands; current land use including all existing structures; locations of utilities, roads, and easements; and significant natural and manmade features not otherwise shown.

#### H. Calculations

The Soil Conservation Service TR-55 method shall be utilized to develop required hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in this ordinance. Such calculations shall include (i) description of the design storm frequency, intensity and duration, (ii) time of concentration, (iii) Soil Curve Numbers or runoff coefficients, (iv) peak runoff rates and total runoff volumes for each watershed area, (v) infiltration rates, where applicable, (vi) culvert capacities, (vii) flow velocities, (viii) data on the increase in rate and volume of runoff for the specified design storms, and (ix) documentation of sources for all computation methods and field test results.

#### I. Soils Information

Geotechnical properties for the hydrologic and structural properties of soils, especially for dam embankments, shall be described in a soils report. The submitted report shall include boring depth, sampling frequency & types and associated laboratory testing with results and conclusions and follow the criteria in the Virginia Stormwater Management Handbook. Soil properties for infiltration facilities shall also conform to the guidance and specification outlined in the Virginia Stormwater Management Handbook. Determination by an Authorized On-site Soil Evaluator (AOSE) or other qualified professional of an accurate location of depth to seasonal high water table shall be made and documented in the soil report in a manner acceptable to the Department.

#### J. Maintenance Plan

The design and planning of all stormwater management facilities shall include detailed maintenance procedures to ensure their continued function. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.

#### K. Landscaping Plan

The applicant must present a detailed landscaping plan describing the woody and

herbaceous vegetative stabilization and management techniques to be used within and adjacent to the stormwater practice. The landscaping plan must also describe who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a qualified individual familiar with the selection of emergent and upland vegetation appropriate for the selected BMP.

#### L. Maintenance Covenant

The applicant must execute a covenant and an inspection and maintenance agreement binding on all subsequent owners of land served by an on-site stormwater management measure in accordance with the specifications of this ordinance. See Section 3.4.

#### M. Erosion and Sediment Control Plans for Construction of Stormwater Management Measures

The applicant must prepare an erosion and sediment control plan in accordance with the Virginia Erosion and Sediment Control Minimum Standards (4VAC50-30-40) (See Chapter 153 of the Northampton County Code, Erosion and Sediment Control Ordinance) for all construction activities related to implementing any on-site stormwater management practices.

#### N. Other Environmental Permits

Documentation by the applicant of acquisition of all other applicable environmental permits shall be required prior to approval of the stormwater design plan.

### **3.4. Stormwater Facility Maintenance Covenants**

Prior to the issuance of any permit that has a stormwater management facility as one of the requirements of the permit, the applicant or owner of the site must execute a formal maintenance covenant that shall be binding on all subsequent owners of land served by the stormwater management facility.

Maintenance of all stormwater management facilities shall be ensured through the creation of a formal maintenance covenant that must be approved by the Department 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, unless assumed by a governmental agency, shall remain with the 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 owner, governmental agency, 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. The covenant shall also include plans for annual inspections to ensure proper performance of the facility between

scheduled maintenance and should also include “failure to maintain” provisions. Plans for annual inspections notwithstanding, the Department shall have the right of entry at reasonable times and under reasonable circumstances, to 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 that maintenance or repair is neglected, or the stormwater management facility becomes a danger to public health or safety, the Department reserves the authority to perform the work and to recover the costs from the owner, after reasonable notice to the property owner(s). Such costs and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by Northampton County as taxes and levies are collected.

### **3.5 Performance Bonds**

The Department may, at its discretion, require the submittal of a performance security or bond with surety, cash escrow, letter of credit or such other acceptable legal arrangement prior to issuance of a permit in order to insure that the stormwater practices are installed by the permit holder as required by the approved stormwater management plan. If such security is required, imposition of this requirement shall be consistent with the following provisions:

1. The amount of the installation performance security shall be no more than 100% of the total estimated construction cost of the stormwater management practices approved under the permit.
2. The performance security shall contain forfeiture provisions for failure, after proper notice, to complete work within the time specified, or to initiate or maintain appropriate actions which may be required of the applicant in accordance with the approved stormwater management plan.
3. If the Department takes such action upon such failure by the applicant, the Department 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.
4. Within sixty days of the completion of the requirements of the approved stormwater management plan in the form of certified as-built report and survey, such bond, cash escrow, letter of credit or other legal arrangement, except for the landscaping survivability shall be refunded to the applicant or terminated.
5. 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.

6. These requirements are in addition to all other provisions of Northampton County ordinances relating to the issuance of such plans and are not intended to otherwise affect the requirements for such plans.

### **3.6. Permit Application Review Fees**

Applicants shall submit a permit fee to the Department in accordance with the fee schedule adopted by the Northampton County Board of Supervisors.

### **3.7. Permit Application Procedure**

1. Applications for land disturbance activity permits must be filed with the Department on any regular business day.

2. Permit applications shall include the following: ten (10) copies of the stormwater management plan, ten (10) copies of the maintenance agreement, and any required review fees.

3. Within sixty (60) calendar days of the receipt of a complete permit application, including all documents as required by this ordinance, the Department shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved.

4. If the permit application, stormwater management plan or maintenance agreement are disapproved, the Department shall communicate the decision to the applicant in writing. The applicant may then revise the stormwater management plan or agreement. If additional information is submitted, the Department shall have 45 calendar days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.

5. If the permit application, final stormwater management plan and maintenance agreement are approved by the Department, the following conditions apply:

A. The applicant shall comply with all applicable requirements of the approved plan and this ordinance and shall certify that all land clearing, construction, development and drainage will be done according to the approved plan.

B. The development project shall be conducted only within the area specified in the approved plan.

C. The Department shall be allowed, after giving notice to the owner, occupier or developer, to conduct periodic inspections of the project.

D. The person responsible for implementing the approved plan shall

conduct monitoring and submit reports as the Department may require to ensure compliance with the approved plan and to determine whether the plan provides effective stormwater management.

E. No changes may be made to an approved plan without review and written approval by the Department.

F. A certified inspection of all aspects of the BMP, including surface As-Built surveys, and geotechnical inspections during subsurface or backfilling and compaction activities shall be required.

## **Section 4. Stormwater Management Waivers**

### **4.1. Waivers for Providing Stormwater Management**

Every applicant shall provide for stormwater management, unless they file a written request to waive this requirement. Requests to waive the stormwater management plan requirements shall be submitted in writing to the Department for approval. A waiver from the stormwater management regulations may be granted, provided that: (i) waivers to the criteria are the minimum necessary to afford relief and (ii) reasonable and appropriate conditions shall be imposed as necessary upon any waiver granted so that the intent of the Law and this ordinance are preserved.

The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:

1. It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this ordinance.
2. Provisions are made to manage stormwater by an off-site facility. The off-site facility is required to be in place, to be designed and adequately sized to provide a level of stormwater control that is equal to or greater than that which would be afforded by on-site practices and has a legally obligated entity responsible for long-term operation and maintenance of the stormwater practice.
3. The Department finds that meeting the minimum on-site management requirements is not feasible due to the natural or existing physical characteristics of a site; however, the minimum standards of this ordinance must be met to the maximum extent practicable.

In instances where one of the conditions above applies, the Department may grant a waiver from strict compliance with stormwater management provisions that are not achievable, provided that acceptable mitigation measures are provided. However, to be eligible for a waiver, the applicant must demonstrate to the satisfaction of the Department that the project complies with Minimum Standard 19 (MS 19) of the Virginia Erosion & Sediment Control Regulations (4 VAC 50-30-

40.19).

## **Section 5. General Criteria for Stormwater Management**

The following technical criteria shall be applied on all applicable development.

### **5.1 General**

1. Determination of flooding and channel erosion impacts to receiving streams due to development projects shall be measured at each point of discharge from the development project and such determination shall include any runoff from the balance of the watershed which also contributes to that point of discharge.
2. The specified design storms shall be defined as a 24-hour storm using the rainfall distribution recommended by the Natural Resources Conservation Service. Pre-development and post-development runoff rates shall be verified by calculations consistent with the generally-accepted professional engineering practices. The post-development release rate shall be controlled to at or below the pre-development rate for: (a) the 2-year event and (b) the 10-year event. Additionally, 24-hour extended detention of the runoff generated by the 1-year event shall be provided. All conveyance mechanisms shall be sized to properly convey the post-development flow from all events. Safe conveyance through the project outfall shall be provided for the post-development release rate associated with the 100-year event. Conveyance may be through an emergency spillway or through a properly-sized principal spillway.
3. For purposes of computing runoff, all pervious lands in the site shall be assumed prior to development to be in good condition (if the lands are pastures, lawns, or parks), with good cover (if the lands are woods), or with conservation treatment (if the lands are cultivated); regardless of conditions existing at the time of computation. Proof of cultivation within the prior five years will be required to claim "cultivated lands" using records provided by the USDA Farm Services Agency.
4. Construction of stormwater management facilities or modifications to channels shall comply with all applicable laws and regulations. Evidence of approval of all necessary permits, such as US Army Corps of Engineers and VA DEQ Wetland Permits, VA DCR VSMP Construction General Permit, etc., shall be presented.
5. Impounding structures that are not covered by the Impounding Structure Regulations (4 VAC 50-20-10 et seq.) shall be engineered for structural integrity during the 100-year storm event.
6. Outflows from a stormwater management facility shall be discharged to an adequate channel, and velocity dissipaters shall be placed at the outfall of all stormwater

management facilities and along the length of any outfall channel as necessary to provide a non-erosive velocity of flow from the basin to a channel.

7. Proposed residential, commercial, or industrial subdivisions shall apply these stormwater management criteria to the development as a whole. Individual lots in new subdivisions shall not be considered separate development projects, but rather the entire subdivision shall be considered a single development project. Hydrologic parameters shall reflect the ultimate development based on zoning and shall be used in all engineering calculations. The applicant may propose an initial stormwater management plan if future development is contemplated. Alternatively, a phase plan or deed restriction limiting future development or impervious surface areas shall be approved by the Department and shall be recorded in the land records of Northampton County.

7. All stormwater management facilities shall have a maintenance plan which identifies the owner and the responsible party for carrying out the maintenance plan.

8. Construction of stormwater management impoundment structures within a Federal Emergency Management Agency (FEMA) designated 100-year floodplain shall be avoided to the extent possible. When this is unavoidable, all stormwater management facility construction shall be in compliance with all applicable regulations under the National Flood Insurance Program, 44 CFR Part 59.

9. Natural channel characteristics shall be preserved to the maximum extent practicable.

10. Development projects shall comply with the Virginia Erosion and Sediment Control Law and attendant regulations.

11. Non-Structural Stormwater Practices designed to reduce the volume of stormwater runoff are encouraged to reduce the amount of stormwater runoff that must be managed. This will help to minimize the reliance on structural practices, which require ongoing maintenance in order to be effective.

## **5.2 Structural Stormwater Management Practices**

### **1. Minimum Control Requirements**

All stormwater management practices shall be designed so that the specific storm frequency storage volumes (e.g., water quality, channel protection, 10-year, 100-year) as identified in the current Virginia Stormwater Management Handbook and as modified in this ordinance are met, unless the Department grants the applicant a waiver or the applicant is exempt from such requirements.

In addition, such conditions that may warrant greater control than that provided by the minimum control requirements, the Department reserves the right to impose any and all additional requirements deemed necessary to protect downstream properties and aquatic resources from damage due to increased volume, frequency, and rate of stormwater

runoff.

## 2. Site Design Feasibility

Stormwater management practices for a site shall be chosen based on the physical conditions of the site. Among the factors that should be considered:

- A. Topography
- B. Maximum Drainage Area
- C. Depth to Seasonal High Water Table (S. H. W. T.)
- D. Soils
- E. Slopes
- F. Terrain
- G. Hydraulic Head
- H. Location in relation to environmentally sensitive features or ultra-urban areas

Applicants shall consult the Virginia Stormwater Management Handbook for guidance on the factors that determine site design feasibility when selecting a stormwater management practice.

## 3. Conveyance Issues

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:

- A. Maximizing of flowpaths from inflow points to outflow points
- B. Protection of inlet and outfall structures
- C. Elimination of erosive flow velocities
- D. Providing of underdrain systems, where applicable

The Virginia Stormwater Management Handbook provides detailed guidance on the requirements for conveyance for each of the approved stormwater management practices.

## 4. Pretreatment Requirements

Every stormwater treatment practice shall have an acceptable form of water quality pretreatment, in accordance with the pretreatment requirements found in the current Virginia Stormwater Management Handbook. Stormwater infiltration practices, or practices having an infiltration component, as specified in the Virginia Stormwater Management Handbook, are prohibited, even with pretreatment, in the following circumstances:

- A. Where stormwater is generated from highly contaminated source areas known

as “hotspots” with exception that retail filling stations that incorporate properly designed oil, water and sediment separation measures;

B. Where stormwater is carried in a conveyance system that also carries contaminated, non-stormwater discharges;

C. Where stormwater is being managed in a designated groundwater recharge area;

D. Under certain geologic conditions that prohibit the proper pretreatment of stormwater.

#### 5. Treatment/Geometry Conditions

All stormwater management practices shall be designed to capture and treat stormwater runoff according to the specifications outlined in the Virginia Stormwater Management Handbook. These specifications will designate the water quality treatment and water quantity criteria that apply to an approved stormwater management practice (see Section 5.3, 5.4, and 5.5 of this Ordinance for specific criteria).

#### 6. Landscaping Plans Required

All stormwater management practices must have a landscaping plan detailing both the vegetation to be in the practice and how and who will manage and maintain this vegetation. This plan must be prepared by a qualified individual familiar with the selection of emergent and upland vegetation appropriate for the selected BMP.

#### 7. Maintenance Agreements

A legally binding covenant specifying the parties responsible for the proper maintenance of all stormwater treatment practices shall be secured prior to issuance of any permits for land disturbance activities. In addition, all stormwater treatment practices shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. This agreement will include any and all maintenance easements required for the Department to access and inspect the stormwater treatment practices. (See Section 3.4 of this Ordinance for specific maintenance provisions).

### 5.3 Water Quality

Unless the Department determines a project to be exempt, the following criteria shall be addressed for stormwater management at all sites:

1. All stormwater runoff generated from development shall not discharge untreated stormwater runoff directly into a jurisdictional wetland or local water body without adequate treatment. Where such discharges are proposed, the impact of the proposal on wetland functions shall be assessed using a method acceptable to the Department. In no case shall the impact on functions be any less than allowed by the Army Corp of Engineers (ACE) or the Department of Environmental Quality.

2. Annual groundwater recharge rates shall be maximized, by promoting infiltration

through the use of structural and non-structural methods.

3. Stormwater discharges from land uses or activities with higher potential pollutant loadings, known as “hotspots”, shall require the use of specific structural BMPs and pollution prevention practices.

4. Development projects shall comply with the water quality Performance-based or Technology-based criteria in accordance with the following:

**A. Performance-based criteria.** For development, the calculated post-development non-point source pollutant runoff load shall be compared to the calculated pre-development load based upon the average land cover condition or the existing site condition. A BMP shall be located, designed, and maintained to achieve the target pollutant removal efficiencies specified in Table 1 to effectively reduce the pollutant load to the required level based upon the following four applicable development situations for which the performance criteria apply:

1. Situation 1 consists of development where the existing percent impervious cover is less than or equal to the average land cover condition and the proposed improvements will create a total percent impervious cover which is less than the average land cover condition.

Requirement: No reduction in the after development pollutant discharge is required.

2. Situation 2 consists of development where the existing percent impervious cover is less than or equal to the average land cover condition and the proposed improvements will create a total percent impervious cover which is greater than the average land cover condition. Requirement: The pollutant discharge after development shall not exceed the existing pollutant discharge based on the average land cover condition.

3. Situation 3 consists of development where the existing percent impervious cover is greater than the average land cover condition.

Requirement: The pollutant discharge after development shall not exceed (i) the pollutant discharge based on existing conditions less 10% or (ii) the pollutant discharge based on the average land cover condition, whichever is greater.

4. Situation 4 consists of development where the existing percent impervious cover is served by an existing stormwater management BMP that addresses water quality. Requirement: The pollutant discharge after development shall not exceed the existing pollutant discharge based on the existing percent impervious cover while served by the existing BMP. The existing BMP shall be shown to have been designed and constructed in

accordance with proper design standards and specifications, and to be in proper functioning condition.

Table 1\*

| Water Quality BMP                                   | Target Phosphorus Removal Efficiency | Percent Impervious Cover |
|---|--------------------------------------|--------------------------|
| Vegetated filter strip                              | 10%                                  | 16-21%                   |
| Grassed swale                                       | 15%                                  |                          |
| Constructed wetlands                                | 30%                                  | 22 -37%                  |
| Extended detention (2 x WQ Vol)                     | 35%                                  |                          |
| Retention basin I (3 x WQ Vol)                      | 40%                                  |                          |
| Bioretention basin                                  | 50%                                  | 38 -66%                  |
| Bioretention filter                                 | 50%                                  |                          |
| Extended detention-enhanced                         | 50%                                  |                          |
| Retention basin II (4 x WQ Vol)                     | 50%                                  |                          |
| Infiltration (1 x WQ Vol)                           | 50%                                  |                          |
| Sand filter   | 65%                                  | 67 -100%                 |
| Infiltration (2 x WQ Vol)                           | 65%                                  |                          |
| Retention basin III (4 x WQ Vol with aquatic bench) | 65%                                  |                          |

\* Innovative or alternate BMPs approved by DCR not included in this table may be allowed at the discretion of the Department. Innovative or alternate BMPs not included in this table which target appropriate nonpoint source pollution other than phosphorous (such as petroleum, hydrocarbons, sediment, etc.) may be allowed at the discretion of the Department.

**B. Technology-based criteria.** For development, the post-developed stormwater runoff from the impervious cover shall be treated by an appropriate BMP as required by the post-developed condition percent impervious cover as specified in Table 1. The selected BMP shall be located, designed, and maintained to perform at the target pollutant removal efficiency specified in Table 1. Design standards and specifications for the BMPs in Table 1 which meet the required target pollutant removal efficiency shall be consistent with those provided in the Virginia Stormwater Management Handbook.

#### 5.4 Stream Channel Erosion

To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the Virginia Stormwater Management Handbook and Virginia Sediment and Erosion Control regulations.

1. Properties and receiving waterways downstream of any development project shall be

protected from erosion and damage due to increases in volume, velocity and frequency of peak flow rate of stormwater runoff in accordance with the minimum design standards set out in this section and criteria specified in section 5.1.

2. The Department shall require compliance with subdivision 19 of 4 VAC 50-30-40 of the Erosion and Sediment Control Regulations, promulgated pursuant to Article 4 (§ 10.1-560 et seq.) of Chapter 5 of Title 10.1 of the Code of Virginia.

## **5.5 Flooding**

The calculations for determining peak flows as found in the Virginia Stormwater Management Handbook shall be used for sizing all stormwater management practices.

1. Downstream properties and waterways shall be protected from damages from localized flooding due to increases in volume, velocity and peak flow rate of stormwater runoff in accordance with the minimum design standards set out in this section and in accordance with criteria specified in section 5.1.

2. Linear development projects shall not be required to control post-developed stormwater runoff for flooding, except in accordance with a watershed or regional stormwater management plan.

## **Section 6. Construction Inspection**

Stormwater management construction inspection shall utilize the final approved plans and specifications for compliance. In addition, the inspection shall comply with latest version of the Erosion and Sediment Control Regulations, promulgated pursuant to Article 4 (§ 10.1-566) of Chapter 5 of Title 10.1 of the Code of Virginia.

### **6.1. Notice of Construction Commencement**

The applicant must notify the Department in advance before the commencement of construction. In addition, the applicant must notify the Department 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 Department or a Virginia professional engineer or their designee who has been approved by the Department. Upon completion, the developer is responsible for certifying that the completed project is in accordance with the approved plans and specifications (refer to As-built Plans - Section 6.2) and the Department shall provide regular inspections sufficient to adequately document compliance. 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 exist.

If any violations are found, the owner, developer, applicant and their designees shall be notified in writing of the nature of the violation and the required corrective actions. No additional work shall proceed until any violations are corrected and all work previously completed has received approval by the Department.

In addition, the developer 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 Department determines that there is a failure to comply with the plan, notice shall be served upon the permittee or owner, developer, applicant and their designees in accordance with Section 8 of this Ordinance.

#### **6.2. Post-Construction Final Inspection and As-Built Plans**

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 Virginia professional engineer. A final inspection by the Department is required before the release of any performance securities can occur. The developer’s certified inspection of all aspects of the BMP construction is required, including surface As-Built surveys, and geotechnical inspections during subsurface or backfilling, riser & principal spillway installation, bioretention soil placement and compaction activities.

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

#### **7.1. Maintenance Inspection of Stormwater Facilities**

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.

At a minimum, a stormwater management facility shall be inspected on a biannual basis by the Department. The Department reserves the right to inspect on a more frequent basis. In the event that the stormwater management facility has not been maintained and/or becomes a danger to public safety or public health, the Department 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 Department, 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.

## **7.2 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 five (5) years. These records shall be made available to the Department during inspection of the facility and at other reasonable times upon request.

## **Section 8. Enforcement and Penalties.**

### **8.1. Violations**

Any development activity that is commenced or is conducted contrary to this Ordinance or the approved plans and permit, may be subject to the enforcement actions outlined in this section and the Virginia Stormwater Management Law.

### **8.2. Notice of Violation**

When the Department determines that an activity is not being carried out in accordance with the requirements of this Ordinance, it shall issue a written notice of violation delivered by registered or certified mail to the owner, developer and their designees. The notice of violation shall contain:

1. The name and address of the owner / developer;
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. A description of the remedial measures necessary to bring the development activity into compliance with this Ordinance and a time schedule for the completion of such remedial action;
5. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
6. A statement that the determination of violation may be appealed to the Northampton County Board of Supervisors by filing a written notice of appeal within thirty (30) days of service of notice of violation.

### **8.3. Stop Work Orders**

Persons receiving a notice of violation will be required to halt all construction activities. This “stop work order” will be in effect until the Department confirms that the development activity is in compliance and the violation has been satisfactorily addressed. Upon failure to comply within

the time specified, the permit may be revoked and the applicant shall be deemed to be in violation of this article and upon conviction shall be subject to the penalties provided by this Ordinance, subsection 8.4.

#### **8.4. Civil and Criminal Penalties**

1. Any person who violates any provision of this ordinance, or who fails, neglects, or refuses to comply with any order of the Department, shall be subject to a civil penalty not to exceed \$32,500 for each violation. Each day of violation of each requirement shall constitute a separate offense. The schedule of civil penalties shall be as adopted by the Virginia Soil and Water Conservation Board. The Department may issue a summons for collection of the civil penalty and the action may be prosecuted in the Circuit Court of Northampton County.

2. Any person who willfully or negligently violates any provision of this ordinance shall be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months and a fine of not less than \$2,500 nor more than \$32,500, either or both. Any person who knowingly violated any provision of this ordinance, or who knowingly makes any false statement in any form required to be submitted under the provisions of this ordinance or knowingly renders inaccurate any monitoring device or method required to be maintained under the provisions of this ordinance, shall be guilty of a felony punishable by a term of imprisonment of not less than one year nor more than three years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not less than \$5,000 nor more than \$50,000 for each violation. Any defendant that is not an individual shall, upon conviction of a violation under this subsection, be sentenced to pay a fine of not less than \$10,000. Each day of violation of each requirement shall constitute a separate offense.

3. Any person who knowingly violates any provision of this ordinance, and who knows at the time that he thereby places another person in imminent danger of death or serious bodily harm, shall, upon conviction, be guilty of a felony punishable by a term of imprisonment of not less than two years nor more than 15 years and a fine of not more than \$250,000, either or both. A defendant that is not an individual shall, upon conviction of a violation under this subsection, be sentenced to pay a fine not exceeding the greater of \$1 million or an amount that is three times the economic benefit realized by the defendant as a result of the offense. The maximum penalty shall be doubled with respect to both fine and imprisonment for any subsequent conviction of the same person under this subsection.

4. The Department may apply to the Northampton County Circuit Court to enjoin a violation or a threatened violation of the provisions of this ordinance without the necessity of showing that an adequate remedy of law does not exist.

5. With the consent of any person who has violated or failed, neglected, or refused to obey any provision of this ordinance or any order of the Department under the provisions of this ordinance, the Department may provide for the payment of civil charges for

violations in specific sums, not to exceed the limit specified in this subsection. Such civil charges shall be instead of the appropriate civil penalty that could be imposed under this subsection and shall be paid to Northampton County.

**8.5. 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 Department 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.

**8.6. Holds on Occupation Permits**

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 Permit requirements, and accepted by Department.

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