

ORDINANCE NUMBER 2019-



AN ORDINANCE AMENDING CHAPTER 30, ARTICLE III,
STORMWATER MANAGEMENT, SECTIONS 30-41, 30-54, 30-58, AND 30-59
OF THE CITY CODE OF THE CITY OF WAYNESBORO, VIRGINIA

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
WAYNESBORO, VIRGINIA THAT:

1. Chapter 30, Article III, Sections 30-54, 30-58, and 30-59 of the City Code, Stormwater Management, of the City of Waynesboro, Virginia are amended and readopted as follows:

Article III. – Stormwater Management

Sec. 30-41. – Definitions

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

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.

Administrator means the VSMP authority including the city manager or his designee.

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 article.

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

Board means the Virginia State Water Control Board.

Building means any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

Clean Water Act (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.

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

City means the City of Waynesboro, Virginia.

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

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

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

Department means 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.

Drainage easement means a legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.

Erosion and sediment control plan means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

Fee in lieu means a payment of money in place of meeting all or part of the stormwater performance standards required by this article.

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.

General permit means the state permit titled General Permit for Discharges of Stormwater from Construction Activities found in Part XIV (9VAC25-880-1 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.

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.

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 soil. Impervious surfaces include, but are not limited to, roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

Jurisdictional wetland means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

Land disturbance or land disturbing activity means a manmade 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 subsection 30-42(b) of this article.

Landowner means the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

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

Linear development project means a land disturbing activity that is linear in nature such as, but not limited to, (i) the construction of electric and telephone utility lines, and natural gas pipelines; (ii)

construction of tracks, rights-of-way, bridges, communication facilities and other related structures of a railroad company; and (iii) 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 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 article.

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 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.

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.

Offset fee means a monetary compensation paid to a local government for failure to meet pollutant load reduction targets.

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 article.

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.

Permittee means the person to whom the VSMP authority permit is issued.

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

Plan-approving authority means the city, the program authority, or a department of a program authority, responsible for determining the adequacy of a submitted stormwater management plan.

Planning area means a designated portion of the parcel on which the land disturbing activity 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 land development activity on a specific site or tract of land.

Pre-development refers to the conditions existing at the time the erosion and sediment control plan is submitted to the plan approving authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time the erosion and sediment control plan for the initial phase is submitted for approval shall establish pre-development conditions.

Recharge means the replenishment of underground water reserves.

Regional (watershed-wide) stormwater management facility or regional 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.

Regional (watershed-wide) stormwater management plan or regional plan means a document containing material describing how runoff from open space, existing development and future planned development areas within a watershed will be controlled by coordinated design and implementation of regional stormwater management facilities.

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

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

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 Virginia State Water Control Board.

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

State water control law means Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia.

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

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) containing material describing methods for complying with the requirements of section 30-45 of this article.

Stormwater pollution prevention plan (SWPPP) means a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be

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

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.

Subdivision means the same as defined in City Code chapter 74.

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

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

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

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

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

Watercourse means a permanent or intermittent stream or other body of water, either natural or manmade, 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 drainageways such that all surface water within the area flows through a single outlet.

Sec. 30-54. - Fees.

- (a) There shall be a reasonable fee charged for the processing of stormwater management permit applications. The permit application review fee shall be due prior to approval of the stormwater management plan.
- (b) The application review fees for initial stormwater management plan reviews and plan re-submittals are outlined in Table 1 of this article. The fee assessed shall be based on the total disturbed acreage of the site.

Table 1. Stormwater management plan review and initial permit fees.

Type of Stormwater Management Permit	Total Fee to be Paid by Applicant	Department Portion of Total Fee (28%)
Total land disturbance acreage, associated with a single-family detached residential structure, within or outside a common plan of development or sale, that is less than 5 acres	\$209.00	\$0.00
Total land disturbance acreage, not associated with a single-family detached residential structure, less than 1 acre within common plans of development or sale	\$290.00	\$81.00
Total land disturbance acreage equal to or greater than 1 acre and less than 5 acres	\$2,700.00	\$756.00
Total land disturbance acreage equal to or greater than 5 acre and less than 10 acres	\$3,400.00	\$952.00
Total land disturbance acreage equal to or greater than 10 acre and less than 50 acres	\$4,500.00	\$1,260.00
Total land disturbance acreage equal to or greater than 50 acre and less than 100 acres	\$6,100.00	\$1,708.00
Total land disturbance acreage equal to or greater than 100 acres	\$9,600.00	\$2,688.00
Stormwater Management Plan Re-submittal (per re-submittal)	\$150.00 + \$20.00/Acre	\$0.00

- (c) Fees for the modification or transfer of permits shall be imposed in accordance with Table 2 of this article. Permit modifications resulting in changes to stormwater management plans that require additional review by the city shall be subject to the fees outlined in Table 2. The fee assessed shall be based on the total disturbed acreage of the site. In addition to the 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 outlined in Table 1 of this article.

Table 2. Permit modification or transfer fees.

Type of Stormwater Management Permit	Total Fee to be Paid by Applicant
Total land disturbance acreage less than 1 acre	\$20.00
Total land disturbance acreage equal to or greater than 1 acre and less than 5 acres	\$200.00
Total land disturbance acreage equal to or greater than 5 acres and less than 10 acres	\$250.00
Total land disturbance acreage equal to or greater than 10 acres and less than 50 acres	\$300.00
Total land disturbance acreage equal to or greater than 50 acres and less than 100 acres	\$450.00
Total land disturbance acreage equal to or greater than 100 acres	\$700.00

- (d) Annual permit maintenance fees shall be imposed as outlined in Table 3 of this article, including any fees imposed on expired permits that have been administratively continued. These fees shall apply until the permit coverage is terminated.

Table 3. Annual permit maintenance fees.

Type of Stormwater Management Permit	Total Fee to be Paid by Applicant
Total land disturbance acreage less than 1 acre	\$150.00
Total land disturbance acreage equal to or greater than 1 acre and less than 5 acres	\$750.00
Total land disturbance acreage equal to or greater than 5 acres and less than 10 acres	\$1,000.00

Total land disturbance acreage equal to or greater than 10 acres and less than 50 acres	\$1,500.00
Total land disturbance acreage equal to or greater than 50 acres and less than 100 acres	\$2,000.00
Total land disturbance acreage equal to or greater than 100 acres	\$3,000.00

- (e) These fees are an approximation of the estimated cost to the city to have its professional staff or consultants review the proposed project, and, pursuant to Code of Virginia § 15.2-2114, do not exceed the actual costs incurred by the city in its stormwater management operations.
- (f) Incomplete payments will be deemed as non-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 late payment fee shall be charged to any delinquent (over 90 days past due) account.
- (g) When any fees are collected pursuant to this section by credit cards, business transaction costs associated with processing such payments may be additionally assessed.

Va. Code § 62.1-44.15:28

Sec. 30-58. - Stormwater utility fee.

- (a) A stormwater utility fee shall be imposed on every improved parcel in the city when it first appears on the real property assessment rolls as an improved parcel (“Initial Fee”) and as of January 1st of each year, regardless of whether the parcel is subject to real estate taxes or other exemptions. A parcel shall be deemed an improved parcel when the improvements are substantially completed or fit for use and/or occupancy prior to December 31st of the year of completion. All stormwater utility fees and other income from the fees shall be deposited into the stormwater management enterprise fund.
- (b) The Initial Fee shall be computed according to the ratio that the portion of the year such improvement is substantially completed or fit for use and/or occupancy bears to the entire year.
- (c) With respect to any Initial Fee made after September 1 of any year, the penalty for nonpayment by December 5 shall be extended to February 5 of the succeeding year.
- (d) All stormwater utility fees and other income from the fees shall be deposited into the stormwater management enterprise fund.
- (e) The rate per equivalent residential unit (ERU-the billing unit) to be used for calculating the stormwater utility fee shall be reviewed annually and set by the city council to be effective July 1st of each year.
- (f) Except as otherwise provided in this ordinance, the impervious area for a property shall be determined by the city using aerial photography, as-built drawings, final approved site plans, field surveys or other appropriate engineering and mapping analysis tools.

- (g) Notwithstanding subsection (a), and consistent with Code of Virginia, § 15.2-2114 (C), the stormwater utility fee shall be waived in its entirety for the following:
- (1) A federal, state, or local government, or public entity, that holds a permit to discharge stormwater from a municipal separate storm sewer system in accordance with Code of Virginia, § 62.1-44.15:24, *et seq.*; except that the waiver of charges shall apply only to property covered by any such permit;
 - (2) Public roads and street rights-of-way that are owned and maintained by state or local agencies including property rights-of-way acquired through the acquisitions process;
 - (3) Any person who owns and provides for complete private maintenance of storm drainage and stormwater facilities, provided such person has obtained the proper permits from the Department of Environmental Quality; and
 - (4) Undeveloped property shall be exempt from the utility fee.
- (h) For the purpose of determining the utility fee, all properties in the city shall be classified by the public works director (hereinafter "director") into one of the following categories:
- (1) Single-family residential;
 - (2) Multi-family residential and nonresidential; and
 - (3) Undeveloped property.
 - a. The monthly utility fee shall be the ERU rate of \$3.96 per month for one ERU until modified by City Council. An ERU is 1,600 square feet of impervious surface.
 - b. The monthly fee for Multi-Family Residential and Nonresidential shall be calculated by dividing impervious surface on the subject property by 1,600 and multiplying by the ERU rate as established by the City Council except that no fee shall exceed 244 ERU's per month.

FEE SCHEDULE FOR SINGLE FAMILY RESIDENTIAL			
Single Residential	Family	ERU's	Monthly Fee
Tier (1)	<1,200 sq. ft.	0.5	1.98
Tier (2)	1,200 to 3,000 sq. ft.	1.0	3.96
Tier (3)	>3,200 sq. ft.	2.0	7.92

- c. The utility fee for vacant developed property, both residential and nonresidential, shall be the same as that for occupied property of the same class.
- d. All multi-family and nonresidential properties shall be billed one (1) ERU at minimum.

Sec. 30-59. - Stormwater utility fee credits.

Code of Virginia, § 15.2-2114 (D), as amended, recognizes that a continued investment in an on-site stormwater management facility results in a reduced impact on the public stormwater management system.

The director is authorized to adopt policies, procedures, and manuals necessary to implement, administer, and enforce this section.

- (1) *Credit eligibility.* Only on-site stormwater management facilities that achieve a permanent reduction in stormwater flow or pollutant loadings and meet the following criteria are eligible for a credit against the stormwater utility fee:
 - a. The parcel owner must submit a credit application form provided by the city in accordance with subsection (3) below.
 - b. The parcel owner must maintain the structure and function of a stormwater management facility and operate the stormwater management facility.
 - c. The parcel owner must have a properly executed maintenance agreement with the city that has been properly recorded in the land records of the office of the Clerk of the Circuit Court of the City of Waynesboro.
 - d. The parcel owner must demonstrate to the city's satisfaction that the facility is functioning as originally designed. The structure must be maintained to the satisfaction of the director in accordance with the properly executed maintenance agreement.
 - e. The facility must have met the criteria in existence at the time of construction in at least one of the following sections of the regulations, or the predecessor sections of the City Code as noted, if applicable:
 - (i) 9VAC25-870-96, Virginia Administrative Code, as amended, water quality; or the applicable predecessor section of City Code, including section 30-48 (Stormwater Technical Criteria); or
 - (ii) Both 9VAC25-870-97, Virginia Administrative Code, as amended, stream channel erosion, and 9VAC25-870-98, Virginia Administrative Code, as amended, Flooding; or applicable predecessor sections of City Code related to stream channel erosion and flooding, including section 30-29 (Erosion and Sediment Control Plans).
 - f. Facilities that do not meet the minimum criteria in subsection e. above may still be considered on a case-by-case basis at the discretion of the director if it is demonstrated that the facility achieves a permanent reduction in post-development stormwater flow and pollutant loading. The credit may be prorated based on an analysis of the benefits of the reduction.
 - g. The director shall have the discretion to modify one (1) or more of the credit eligibility requirements set forth in this section for residential credit applications, including establishing the definition of residential properties for purposes of residential credit applications. The definition of residential properties entitled to submit residential credit applications and any such other modifications shall be included in the policies, procedures, or manuals adopted by the director pursuant to this ordinance.
- (2) *Credit amounts.*
 - a. The maximum credit allowed is 50 percent of the total annual stormwater utility fee, except as provided in subsection f. below.
 - b. For an on-site stormwater management facility, the credit amount is based on the amount of impervious surface located on the parcel draining to the facility, and not the total amount of impervious surface cover on the parcel.

- c. Credits for on-site stormwater management facilities are as follows if the facility was required under the provisions of chapter 30, article II, Erosion and Sediment Control or article III, Stormwater Management, of the City Code:
 - (i) A ten percent credit is allowed if the facility, or facilities, provide water quality benefits in accordance with 9VAC25-870-96, Virginia Administrative Code, as amended.
 - (ii) A ten percent credit is allowed if the facility, or facilities, provide both stream channel erosion control benefits in accordance with 9VAC25-870-97, Virginia Administrative Code, as amended, and flood control benefits in accordance with 9VAC25-870-98, Virginia Administrative Code, as amended.
 - d. At the director's discretion, a credit of up to five percent in addition to that provided in subsection c. above may be granted for a facility that achieves benefits above those required by the City Code.
 - e. If an on-site stormwater management facility is part of a voluntary retrofit, the amount of credit the facility is eligible to receive in accordance with subsections c. and d. above shall be doubled.
 - f. The owner of an eligible facility that treats off-site impervious surface located within the City may take a credit for treating the off-site impervious surface. The off-site credit amount shall be calculated in the same manner as if the facility was located on the off-site parcel. However, in no case shall the total credit exceed the total amount of the annual stormwater utility fee charged to the parcel owner.
- (3) *Application and maintenance verification.*
- a. There is no fee for a credit application.
 - b. To apply for the initial credit for an on-site stormwater management facility, the parcel owner must submit, at his or her own expense, a credit application form to be provided by the director. The credit application form shall require the following information:
 - (i) A description of the type of facility (or facilities), the stormwater control standard met by the facility, and the year the facility was built;
 - (ii) A drainage area map, drawn to scale, for the facility showing the drainage boundaries and the impervious area treated by the facility in square feet;
 - (iii) As-built or other acceptable engineering plans for the facility;
 - (iv) A narrative of the known maintenance history of the facility, including routine maintenance and significant structural maintenance and repair;
 - (v) A copy of the city's standard maintenance agreement that has been executed by the city and properly recorded in the land records of the office of the clerk of the circuit court of the City of Waynesboro. If there is no existing facility maintenance agreement, then one must be completed and properly recorded;
 - (vi) Information on any public funds used to construct, repair, upgrade, or retrofit the facility, including the amount and the date(s);
 - (vii) Calculations to determine the monetary amount of the claimed credit; and

- (viii) A completed inspection checklist certifying that the facility is functioning as originally designed. "Functioning as originally designed" means that the facility is operating in accordance with the original design specifications, regardless of the standard in effect at the time of the installation. The checklist must be signed and sealed by a professional engineer. The inspection checklist shall be no more than one year old at the time of application.
 - c. Once approved, the parcel owner will continue to receive the credit as long as the facility continues to function as originally designed, and subject to reporting requirements established by the director. The director may revoke the credit if an inspection by the director or a designated representative determines that the facility is no longer being properly maintained or functioning as designed. Such revocation will be effective 30 days after the director has notified the parcel owner in writing of the deficiency(s) and if the problems are not resolved. The revocation may be delayed for an additional period, at the discretion of the director, provided that the parcel owner is diligently pursuing work to eliminate deficiencies.
 - d. Any maintenance or functional deficiencies must be remedied at the owner's expense before a facility may qualify, or re-qualify (after revocation), for a credit.
 - e. The director shall have the discretion to modify the application and maintenance verification criteria and the credit application form for residential credit applications, including the definition of residential properties qualified to submit residential credit applications and any such other modifications shall be included in the policies, procedures, or manuals adopted by the director pursuant to this section
- (4) *Public improvements to private facilities.* A privately owned and operated facility that was constructed or upgraded using city provided funds shall be treated in the following manner:
- a. *Newly constructed facility.* The parcel owner shall not be eligible for a credit until such time that the cumulative amount of credit that otherwise would have been allowed if the facility was constructed using private funds equals or exceeds the city's investment.
 - b. *Existing, non-functioning facility upgraded to function properly.* The parcel owner shall not be eligible for a credit until such time that the cumulative amount of credit that otherwise would have been allowed if the upgrade or retrofit was constructed using private funds equals or exceeds the city's investment.
 - c. *Existing, functioning facility upgraded and eligible for higher credit.* The parcel owner shall be eligible for the original credit. At such time that the cumulative difference between the original credit and the higher credit equals or exceeds the city's investment, the parcel owner shall also be eligible for the higher credit.
- (5) *Credit for industrial stormwater permits.* Subject to the maximum credit in subsection (2)a. above, a ten percent credit is allowed for any parcel, or portion of a parcel, that is subject to, and in compliance with, an individual or general Virginia pollutant discharge elimination system industrial stormwater permit issued in accordance with 9VAC25-31-120, Virginia Administrative Code, as amended. To apply for the initial credit, the parcel owner must provide the director with proof of permit coverage, the

date of permit expiration, and a cover letter affirming that the parcel is in full compliance with the permit requirements. The credit will expire on permit expiration unless the parcel owner provides proof to the director that the permit has been renewed.

- (6) *Affirmative duty and timing.* It is the sole responsibility of the parcel owner to apply for a credit in accordance with policies, procedures, and manuals adopted by the director. All credits shall be applied 30 days from the date of approval of the credit.

2. The City Manager is hereby authorized to take all actions reasonably necessary, including executing such documents as are reasonably necessary, to effectuate and carry out the purposes of this Ordinance.

- 3. This Ordinance shall take effect immediately upon adoption by the City Council.

Introduced:

Adopted:

Effective:

[SEAL]

ATTEST:

Clerk, City Council
City of Waynesboro, Virginia

Mayor, City Council
City of Waynesboro, Virginia