

ORDINANCE NO. 1774

ORDINANCE OF COUNCIL AMENDING ORDINANCE NO 1743 OF THE CODIFIED ORDINANCES OF THE CITY OF WEIRTON, AS REVISED, CONCERNING STORMWATER MANAGEMENT AND SURFACE WATER DISCHARGE CONTROL AND APPLICABLE RATES AND FEES

WHEREAS, the City of Weirton has been designated by Federal Law as a regulated municipal separate storm sewer system, and as such, must comply with the regulatory requirements established under the Clean Water Act; and,

WHEREAS, there is a public need to protect life, property and the water environment from loss, injury and damage caused by storm and surface water, and a responsibility of the City as a trustee of the water environment for future generations; and,

WHEREAS, the 2001 West Virginia Legislature amended the West Virginia Code so as to authorize municipalities to regulate stormwater management and surface water discharge as part of its public works program; and,

WHEREAS, accordingly, it is necessary and proper for the City of Weirton to enact rules and regulations, as well as service fees, pertaining to stormwater management and surface water discharge control.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF WEIRTON, BROOKE AND HANCOCK COUNTIES, WEST VIRGINIA, that Article 956 of the Codified Ordinances of the City of Weirton, as revised, is hereby **AMENDED AND REENACTED** to read as follows:

ARTICLE 956:

Stormwater Management and Surface Water Discharge Control

Sec. 956.01 Definitions:

Unless the context specifically indicates otherwise, the meaning of the terms used herein shall be as follows:

(a) **“Best Management Practices (BMP’S)”** are physical, structural and/or managerial practices that, when used singly or in combination, control site run-off, spillage and leaks, waste disposal and drainage from raw material storage and prevent or reduce the discharge of pollutants directly or indirectly to waters of the state. BMP’S may include schedules of activities, prohibition of practices, design standards, educational activities and treatment requirements.

(b) **“Facility”** for purposes of this Article is a building, structure, installation or construction site in which pollutants are produced and/or generated as a result of a process or processes, conducted within the building, structure or installation.

(c) **“Footing drain”** is a pipe or conduit which is placed around the perimeter of a building foundation or other structures for the purpose of admitting ground water.

(d) **“Illicit connection”** means any physical connection to a publicly maintained storm drain system which has not been permitted or allowed by the City of Weirton from the date of enactment of this ordinance.

(e) **“Illicit discharge”** means any discharge to a storm drain or into the stormwater collection system that is not composed entirely of stormwater, except discharges pursuant to a NPDES permit, discharges resulting from firefighting activities, and other discharges exempted in this Article.

(f) **“Impervious area”** is land area covered by any manmade surface that significantly inhibits stormwater from penetrating the soil.

(g) **“Industrial sites”** are those sites that contain industrial activities which require NPDES stormwater permits as set forth in 40 CFR 122.26(a) (6).

(h) **“MS4”** is the municipal separate storm sewer system serving the City of Weirton, as defined by federal law at 40 CFR 122.26.

(i) **“Multi-unit property”** is a residential, non-residential or commercial property of any size that has located upon the property two or more tenants, at least one of which having no ownership interest in the property.

(j) **“Non-stormwater”** is all flows to the stormwater system not defined as stormwater in this Article or as determined by the City. This includes, but is not limited to, cooling water, process water, ground water from a purge well and swimming pool discharge.

(k) **“Pervious area”** is all land area that is not impervious.

(l) **“Pollutant”** means objects including, but not limited to, dredged soil, solid waste, sewage, garbage, sewage sludge, grease, petroleum products, munitions, chemical waste, detergents, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, dirt, industrial, municipal and agricultural waste, gasses entrained in water, paints, oil and other automotive fluids, soil, rubbish, debris, materials containing fecal coli form, fecal streptococcus, and enterococcus, heavy metals, hazardous wastes, yard waste from commercial landscaping operations, animal waste, materials that result from the process of building, and offensive matter of any kind, which, when discharged to water, cause or contribute to water pollution.

(m) **“Pollution”** is the degradation of the physical, thermal, chemical, biological or radioactive properties of the waters of the state and/or the discharge of any pollutant to the waters of the state which will or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare or to the beneficial use of the water and/or the water environment.

(n) **“Private facility”** is a stormwater facility not otherwise classified as a public facility as defined in paragraph (q) below.

(o) **“Public facility”** is a stormwater facility that serves two or more properties, including, but not limited to, main pipelines that collect and transmit stormwater from and/or across two or more properties, and all taps or other connections onto a public facility. Public facilities that are privately owned upon enactment of this Article shall become publicly owned

facilities, and thus the responsibility of the stormwater utility, only upon conveyance by the private owner and acceptance by the Utility.

(p) **“Real property”**, as used in this Article, is land and fixtures and improvements upon that land, but does not include public streets or sidewalks.

(q) **“Service area”** is all areas within the political boundaries of the City of Weirton and those areas outside of said boundaries that naturally drain into the City, that may be designated by City Council as included in the area served by the Utility.

(r) **“Stormwater”** is atmospheric precipitation, surface runoff water, ground water discharge, flows from footing drains and all other discharge sources identified in the City of Weirton stormwater NPDES permit, except as may be defined as non-stormwater by this Article.

(s) **“Stormwater Hotspot”** is a commercial, industrial, institutional, municipal, or transport related operation that may produce higher levels of stormwater pollutants, and/or may present a higher potential risk for spills, leaks or illicit discharges.

(t) **“Stormwater management”** is the process of collection, conveyance, storage, treatment and disposal of stormwater to ensure control of the magnitude and frequency of runoff to minimize the impact of the runoff upon the water quality of the receiving stream and the other hazards associated with flooding.

(u) **“Stormwater system”** includes all facilities, structures and natural water courses used for collecting and conducting stormwater to, through and from drainage areas to points of final outlet including, but not limited to, any and all of the following: Inlets, conduits, outlets, channels, ponds, drainage easements, water quality facilities, catch basins, streams, gulches, flumes, culverts, siphons, retention or detention basins, dams, floodwalls, pipes, flood control systems, levies and pumping stations. As applied in this Article, “stormwater system” does not include highways, roads and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways.

(v) **“User”** is a firm, person or property which is the legal owner or occupant of a property that directly or indirectly contributes stormwater or non-stormwater flows to the stormwater system, within the service area of the Utility as defined by this Article.

(w) **“Utility”** is the Weirton City Council.

Sec. 956.02 General:

(a) This article has been enacted to protect and enhance the water quality of our watercourses, water bodies, groundwater and wetlands in a manner pursuant to and consistent with the Clean Water Act and associated federal and state stormwater regulations.

(b) The intent of this article is:

(1) To control non-stormwater discharges to storm drain systems.

- (2) To reduce pollutants in stormwater discharges.
- (3) To control stormwater runoffs by providing design, construction and maintenance criteria for permanent and temporary stormwater facilities.
- (4) To maintain and improve the stormwater collection system in order to protect and improve water quality in the receiving streams and to reduce or eliminate local flooding resulting from stormwater accumulation.
- (5) To fully comply with federal and state statutory and regulatory requirements and schedules regarding stormwater management and the water quality of the receiving streams.

State law references: W. Va. Code §§ 8-16-1, 16-13-1, 16-13-2.

Sec. 956.03 Stormwater User Fees and Service Charges:

(a) The City Council shall, by ordinance, set with a majority vote user fees which will recover from users their fair share of costs for use of the stormwater system by property within the service area. Such user fees will be for the operation and maintenance of, improvements to, necessary additions to, and environmental compliance programs for the stormwater system.

(b) The Utility may establish and enforce service fees to be charged and collected for services rendered by the stormwater utility or by agents of the utility, including, but not limited to, fees for permit application, stormwater management plan review, inspection, and other services.

State law reference: W. Va. Code §§ 8-16-18, 8-16-21, 16-13-22.

Sec. 956.04 Billing:

The billing for stormwater service may be combined with the billing for other utility services provided by the City.

State law reference: W. Va. Code §§ 8-16-18, 16-13-16

Sec. 956.05 Collection:

The Utility is authorized to assess interest and penalties upon unpaid and past due stormwater user fees and service charges, and to act as deemed appropriate to enforce collection of unpaid fees and charges. Unpaid stormwater fees and charges shall constitute just cause for disconnection of public water service to the non-paying property. The Utility shall ensure sufficient notice of disconnection is issued no later than thirty (30) days prior to the scheduled disconnection and that notice of disconnection is posted on the affected property no later than five (5) days prior to the scheduled disconnection. Water service shall be reactivated only upon full payment of the stormwater service charges or other payment arrangements approved by the Utility. The Utility may also take appropriate legal action to collect unpaid charges, including, but not limited to, placing a lien upon the subject property and/or bringing a civil action in a court of competent jurisdiction to recover unpaid charges and fees.

State law reference: W. Va. Code §§ 8-16-18, 16-13-16.

Sec. 956.06 Use of Funds:

All funds collected for stormwater service shall be accounted for separately and shall be used solely for the construction, operation and maintenance of the stormwater system and stormwater environmental compliance programs.

State law reference: W. Va. Code §§ 16-13-16, 16-13-23(a).

Sec. 956.07 General Requirements and Prohibitions:

(a) The use of the stormwater collection system shall be the collection and transportation of stormwater.

(b) No person shall place or cause to be placed any pollutant into the stormwater system other than stormwater, unless written approval has been granted by the Utility. The Utility may refuse to grant approval to discharge non-stormwater into the stormwater system for any reason or combination of reasons.

(c) The Utility shall administer use of the stormwater system to all users within the service area as defined by this Article.

(d) No person shall cause or permit the introduction of any pollutant into the stormwater system, whether solid, liquid or gaseous, that will cause:

- (1) Chemical reaction, either directly or indirectly with the materials of construction used in the stormwater system or that will impair the strength or durability of sewers or structures.
- (2) Mechanical action that will destroy or damage sewers or structures.
- (3) Restriction of the normal maintenance and inspection of sewers.
- (4) Danger to public health and safety or to the environment.
- (5) Conditions that create a public nuisance.
- (6) An oil sheen or unusual color.
- (7) Abnormal demand on the stormwater system capacity.
- (8) The stormwater system to violate its NPDES permit or applicable receiving water standards and all other Federal, State, and local regulations.

(e) Any person or entity engaged in activities which will or may result in pollutants entering the storm drain system shall undertake best management practices to reduce such pollutants. Examples of such activities include, but are not limited to, compliant operation of

facilities that may be a source of pollutants, such as paved parking lots, gasoline stations, industrial facilities, and private roads/streets.

(f) No person shall throw, deposit, leave, maintain or cause to be thrown, deposited, left or maintained any refuse, rubbish, garbage, grease, petroleum products, or other discarded or abandoned objects, articles and accumulations in or upon any street, alley, sidewalk, storm drain inlet, catch basin, conduit or other drainage structures, parking area, or upon any private or public plot of land so that the same might become a pollutant, except where the pollutant is being temporarily stored in properly contained waste receptacles or is part of a well defined compost system.

(g) No person shall cause or permit any dumpster, solid waste bin, or similar container to leak such that any pollutant is discharged into any street, alley, sidewalk, storm drain, inlet, catch basin, conduit or other drainage structure, or upon any public or private plot of land in the urban watershed.

(h) No person shall cause discharge to the MS4 from potable or non-potable water sources that have a potential to violate in-stream water quality standards.

(i) No person shall discharge excessive irrigation runoff, wash water or dust control water into the MS4.

(j) No person shall use the stormwater system for discharge from any environmental cleanup that is regulated under federal or state law unless approved by the Utility. Approval by the Utility must be conditioned upon the discharge meeting all criteria for discharge under this chapter. Approval conditions may provide for measures appropriate to prevent harm due to possible infiltration into the ground adjacent to the system or failure of any pretreatment system for the discharge.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 956.08 Illicit Connections and Illicit Discharges:

(a) It is prohibited to establish, use, maintain or continue illicit connections to the municipal stormwater system, or to commence or continue any illicit discharges to the municipal stormwater system.

(b) The Utility shall locate and focus illicit discharge inspection efforts upon priority areas likely to have illicit discharges, including land uses associated with potentially polluting activities, areas where pollution complaints have been registered in the past, and areas with storage of large quantities of materials that could result in spills.

(c) Upon notification or discovery of a suspected illicit discharge, the Utility shall, within fifteen (15) days, initiate an investigation of the same to discover the source of the connection or discharge, the nature and volume of discharge, and the party responsible for the connection or discharge. If an imminent threat to water quality is alleged or suspected, the Utility shall immediately conduct this inspection.

(d) Elimination of illicit discharges shall be timely made at the cost of the party responsible for the discharge. The Utility may recover these costs and/or impose sanctions for

illicit discharges as authorized by this Article or refer the violation to WVDEP for further enforcement action.

(e) The Utility shall operate and publicize a public spill hot-line reporting system.

(f) The Utility shall report annually to the WVDEP all illicit discharge elimination activities, including inspections, public complaints, and all follow-up actions regarding an actual or suspected illicit discharge.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 956.09 Outdoor Storage Areas:

In outdoor areas, no person shall store grease, oil or other hazardous substances in a manner that will or may result in such substances entering the stormwater system. In outdoor areas, no person shall store motor vehicles, machine parts, or other objects in a manner that may leak grease, oil, or other hazardous substances to the stormwater system. To prevent the discharge of hazardous substances to the stormwater system, the Utility may require the installation of a spill containment system. Spill containment systems may consist of a system of dikes, walls, barriers, berms, or other devices as required. No person shall operate a spill containment system such that it allows incompatible liquids to mix and thereby create a hazardous condition.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 956.10 Construction Sites:

Any person performing construction work in the service area as defined by this Article shall comply with the provisions of this Article and shall provide erosion and sediment controls that effectively prevent discharges of pollutants to the storm drain system and/or receiving stream. The Utility shall establish by regulation standards and guidelines for the implementation and maintenance of best management practices designed to provide erosion and sediment control from construction sites. At a minimum, these regulations shall address:

- (1) Erosion controls through the protection and preservation of the soil at an active construction site to prevent off-site sedimentation.
- (2) Sediment controls to remove sediment from runoff before the runoff is discharged from an active construction site.
- (3) Stabilization and structural practices to prevent sedimentation and erosion.
- (4) Stormwater management measures shall be installed before, coincident with and upon completion of construction activities. These measures shall be designed to reduce or eliminate pollutants discharged from the site and to promote flood control objectives designated by the Utility.
- (5) Construction site housekeeping best management practices, including, but not limited to, equipment maintenance, repair and cleaning, waste management and collection, storage of materials and chemicals, sanitary

facilities and street sweeping both daily and prior to final washing of the street at the completion of construction activities.

- (6) Compliance with any and all other requirements imposed under the provisions of the Clean Water Act.

No landowner or land operator shall receive or maintain any building, grading or other land development permit or administrative authorization/license required for building or land disturbance activities without first meeting the requirement of this section.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 956.11 Discharge of Non-Stormwater to the MS4:

(a) Discharges from the following activities will not be considered a regulated source of pollutants to the municipal separate storm sewer and waters of the state when properly managed: water line flushing and uncontaminated discharges from potable water sources, landscape irrigation and lawn watering, irrigation water, diverted stream flows, rising ground waters, groundwater infiltration to separate storm drains, uncontaminated pumped ground water, foundation and footing drains, roof drains, water from crawl space pumps, residential air conditioning condensation, springs, individual residential car washes, flows from riparian habitats and wetlands, de-chlorinated swimming pool discharges or flows from fire fighting activities and training.

(b) The Utility shall have ten (10) days notice of any planned discharge of non-stormwater to the MS4. Such discharges shall be de-chlorinated to a concentration of 0.1 ppm or less, pH adjusted, and shall be volumetrically and velocity controlled to prevent re-suspension of sediments to the MS4.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 956.12 Discharge in Violation of Permit:

Any discharge that would cause a violation of a Municipal NPDES Permit and any amendments, revisions or reissuance thereof, either separately considered or when combined with other discharges, is prohibited. Liability for any such discharge, including, but not limited to, the cost of remedial activity, shall be the responsibility of the person(s) causing or responsible for the discharge, and the City shall seek to have such persons defend, indemnify and hold harmless the City in any administrative or judicial enforcement action against the City of Weirton relating to such discharge as provided by applicable rules of law.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 956.13 Notification of Spills:

All persons in charge of a facility or responsible for emergency response for a facility are responsible to train facility personnel, maintain records of such training and maintain notification procedures to assure that immediate notification is provided to the Utility upon becoming aware

of any suspected, confirmed or unconfirmed release of material, pollutants or waste creating a risk of discharge into the municipal stormwater system or into a receiving stream.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 956.14 Construction:

(a) Only designated City of Weirton employees or parties authorized by the Utility may perform construction upon the public facilities of the stormwater system. Public facilities of the system shall include:

- (1) Those facilities that serve two or more properties, including, but not limited to, stormwater system facilities that collect and transmit stormwater from and/or across two or more properties.
- (2) All taps or other connections from a private lateral to a public facility of the system.

(b) All public costs and expenses of and incidental to the installation of private stormwater facilities, connections to public facilities, and installation of public facilities to facilitate and convey flows from a specific private facility shall be borne by the owner(s) of the private facility. Payment terms for these costs and expenses shall be designated by the Utility.

(c) Parties authorized by the Utility to perform construction of or upon the public facilities of the stormwater system shall comply with the design and construction standards promulgated by the Utility. These parties shall allow for inspection of the construction by the Utility at all times, and construction shall only occur during normal working hours of the Utility unless otherwise authorized by the Utility. No facility constructed by an authorized party may be covered or connected to a public facility without specific authorization of the Utility. This authority shall be granted by the Utility upon satisfaction of the design and construction standards, promulgated by the Utility.

(d) All public facilities shall, upon authorized completion, be property of the City of Weirton.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 956.15 Stormwater Taps:

(a) The Utility or a party authorized by the Utility will furnish and install stormwater system taps of the size and at the location requested in writing by an applicant upon a form to be provided by the Utility. The applicant shall pay the full and actual cost of the tap installation.

(b) The Utility may deny a tap application when the requested tap is proposed to an inadequate public facility.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 956.16 Plan Submission and Review Process:

(a) Upon the effective date of this Article, stormwater management plans and comprehensive drainage plans for any new construction or reconstruction within the service areas defined by this Article shall be submitted to the Utility. The plans shall be reviewed by the Utility or its designated representative for compliance with the applicable rules and standards. Plans developed to meet federal or state requirements may be submitted, and will be approved if they conform to the requirements of this Article. If the Utility employs outside services for plan review, the cost of that review shall be paid by the Applicant.

(b) The plan submission and review process shall be coordinated with and integrated into the City planning and permitting process. Following the effective date of this Article, no building permit shall be issued without an approved stormwater management plan if required under this Article.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 956.17 Stormwater Management and Comprehensive Drainage Plans:

(a) The requirements and standards of this section shall apply to all new developments and redevelopment projects including those defined as stormwater hotspots. The intent of these regulations is to minimize the discharge and transport of pollutants to storm drain systems and prevent the deterioration of water quality.

(1) A project that is a potential hotspot that cannot meet water quality treatment with on-site controls, must properly convey stormwater to an accepting NPDES permitted wastewater treatment facility or via a licensed waste hauler to a permitted treatment and disposal facility.

(b) The site design standards need to include managing the first 1-inch of rain falling in a 24-hr storm, following 48 hrs. without rain. Site design standards for all new and redevelopment that require, in combination or alone, management measures that keep and manage on site the first 1 inch of water can include any variety of guidelines as indicated in the latest issue of the WV Department of Environmental Protection's Stormwater Management & Design Guidance Manual or the WVDEP Division of Water and Waste Water General Permit

(c) All new developments and redevelopment projects within the city watershed shall include stormwater management plans and comprehensive drainage plans as described in this section. They shall also include, as applicable to the development or redevelopment project, the six watershed protection elements as listed below. These plans shall be subject to the review and approval of the Utility or its designated representative.

(1) *Plans to minimize impervious surfaces.* Include a process to reduce impervious surfaces in the development or redevelopment plans. Acceptable plans will include any variety of guidelines or BMPs as indicated in the latest issue of the WV Department of Environmental Protection's Stormwater Management & Design Guidance Manual.

(2) *Plans to preserve ecologically sensitive areas.* Include a process to buffer ecologically sensitive areas in the development or redevelopment plans. Acceptable plans will

include any variety of guidelines or BMPs as indicated in the latest issue of the WV Department of Environmental Protection's Stormwater Management & Design Guidance Manual.

(3) *Plans to reduce thermal impacts.* Include a process to reduce thermal impacts to streams by including in development or redevelopment plans designs that minimize the area of connected impervious cover flowing to the MS4. Acceptable plans will include any variety of guidelines or BMPs as indicated in the latest issue of the WV Department of Environmental Protection's Stormwater Management & Design Guidance Manual.

(4) *Plans to reduce or avoid hydromodification.* Include a process to reduce or avoid hydromodification of streams in the development or redevelopment plans. Acceptable plans will include any variety of guidelines or BMPs as indicated in the latest issue of the WV Department of Environmental Protection's Stormwater Management & Design Guidance Manual.

(5) *Plans for tree protection.* Include in the development or redevelopment plans a requirement to replace trees removed during construction or addition of trees post construction. Acceptable plans will include any variety of guidelines or BMPs as indicated in the latest issue of the WV Department of Environmental Protection's Stormwater Management & Design Guidance Manual.

(6) *Plans for protection of native soils, prevention of compaction of soils.* Include in the development or redevelopment plans guidelines for topsoil replacement after construction. Acceptable plans will include any variety of guidelines or BMPs as indicated in the latest issue of the WV Department of Environmental Protection's Stormwater Management & Design Guidance Manual.

(c) The following activities shall be exempt from the requirements of this Section, except that no activity shall be exempt from the management of the discharge of sediment or any other form of water pollution that may leave any parcel or site.

- (1) Agricultural land management activities.
- (2) Construction of a detached single family dwelling that is not part of a larger development and/or additions or modifications to an existing detached single family dwelling.

(d) All new development and redevelopment subject to the provisions of this ordinance shall be required to obtain a stormwater permit unless exempted under the provisions of this Section. The Utility shall issue a stormwater management permit for plans that meet the requirements of this section and any other requirements of this ordinance. No city

building permit shall be issued without the submission of a stormwater permit issued under the provisions of this ordinance.

(e) Technical, administrative or procedural matters may be modified by the Utility as needed to meet the objectives and policies defined in this ordinance, so long as such modifications are not contrary to or beyond the intent of the objectives and policies included in this ordinance.

(f) Uniform requirements shall be applied to each regulated project site. These requirements shall be based upon the criterion that post development stormwater peak runoff rates of flow must not exceed the pre-development peak runoff rates of flow. In redevelopment projects a peak runoff rate of flow reduction of 10% from the preexisting peak runoff rate of flow must be achieved. However, no reduction shall be required beyond the peak runoff rate of flow that would occur from the parcel in its natural, undeveloped state.

(g) For construction that results in impervious area of 3,000 square feet or more and less than 25,000 square feet, and if the ratio of impervious surface area to total site area is less than 75%, a Stormwater Management and Comprehensive Drainage Plan will be required in order to qualify for a stormwater permit. The plan shall include the following information:

(1) Descriptive Information:

A. Title Block With:

- i. Development Name
- ii. Owner
- iii. Design Firm
- iv. Legend
- v. North Arrow
- vi. Vicinity Map
- vii. Scale
- viii. Sheet Numbers
- ix. Date

B. Topographical Features:

- i. Original contours at intervals no greater than 2 vertical feet
- ii. Existing drainage components, i.e. streams, ponds, pipes, etc.
- iii. Property Boundary lines
- iv. Existing streets, buildings, and utilities

- v. 100 year flood plain
- vi. Off-site drainage entering site
- vii. Original drawing no larger than 24-inch x 36-inch and at a scale from 1 inch equals 10 feet to 1 inch equals 50 feet

C. Site Plan:

- i. Existing and proposed structures, roads, buildings, paved areas
- ii. Existing and proposed stormwater management system and components including sizes, lengths, pertinent elevations, etc.
- iii. Where and how proposed stormwater management system will be connected to existing systems
- iv. Location and grade of all swales including cross sections
- v. Location and design of all other Best Management Structures/Implementations
- vi. Sediment and Erosion Control measures are required. Refer to the most current edition of the West Virginia Department of Environmental Protection Sediment and Erosion Control manual for acceptable means and methods
- vii. Existing and proposed ground cover
- viii. Total Impervious Area
- ix. Control release facilities showing cross-sections and profiles

D. Final As-Built Drawings:

- i. Show location length, sizes, pertinent elevations of the stormwater management system
- ii. All impervious areas shall be accurately depicted
- iii. Failure to provide final as-built drawings within three months of substantial project completion will cause the utility to prepare these drawings. The responsible party shall be charged for this service. The Utility may extend this time as deemed necessary

(2) Design Standards:

- A. Flow rates shall be calculated by use of the Rational Method unless sufficient justification for use of another method is approved by the Director.
- B. The minimum "Time of Concentration" to be used in the calculations shall be six (6) minutes.
- C. The ABT & Grigg Method shall be used to determine the volume necessary for detention. Detention structures shall be designed in such a manner that the post-construction peak runoff rate of flow shall be equal to or less than the pre-construction peak runoff rate of flow for 2-year/24-hour, 10-year/24-hour and 25-year/24-hour storms. In redevelopment projects, a peak runoff rate of flow reduction of 10% from the pre-existing peak runoff rate of flow must be achieved. However, no reduction shall be required beyond the peak runoff rate of flow that would occur from the parcel in its natural, undeveloped state.

(3) Design Backup:

- A. Calculations of volumetric runoff and peak runoff rate of flow for both pre-development and post-development.
- B. Calculations for stormwater detention/retention facility and other system elements.
- C. Operation and Maintenance Manual for private stormwater control facilities

- (4) Sedimentation and Erosion Control measures are required. Refer to the most current edition of The West Virginia Department of Environmental Protection Sedimentation and Erosion Control manual for acceptable means and methods.

(h). For construction that results in impervious area of 25,000 square feet and greater or, if the ratio of impervious surface area to total site area is greater than 75%, a Stormwater Management and Comprehensive Drainage Plan will be required in order to qualify for a stormwater permit. The plan shall include the following information:

(1) Descriptive Information:

- A. Title Block With:
 - i. Development Name
 - ii. Owner
 - iii. Design Firm
 - iv. Authorized Registered Professional Engineer Stamp, Signature, and Date

- v. Legend
 - vi. North Arrow
 - vii. Vicinity Map
 - viii. Scale
 - ix. Sheet Numbers
 - x. Date
 - xi. Revision Numbers and Dates
- B. Topographical Features:
- i. Original and proposed contours at intervals no greater than 2 vertical feet
 - ii. Existing drainage components, i.e., streams, ponds, pipes, etc.
 - iii. Property Boundary lines
 - iv. Existing streets, buildings, and utilities.
 - v. 100 year flood plain.
 - vi. Off-site drainage entering site.
 - vii. Original drawing no larger than 24-inchx36-inch and at a scale from 1-inch equals 10 feet to 1-inch equals 50 feet.
- C. Site Plan:
- i. Existing and proposed structures, roads, buildings, paved areas
 - ii. Existing and proposed stormwater management system and components including sizes, lengths, pertinent elevations, etc.
 - iii. Where and how proposed stormwater management system will be connected to existing systems
 - iv. Location and grade of all swales including cross sections
 - v. Location and design of all other Best Management Structures/ Implementations

- vi. Sedimentation and Erosion Control measures are required. Refer to the most current edition of The West Virginia Department of Environmental Protection Sedimentation and Erosion Control manual for acceptable means and methods
 - vii. Existing and proposed ground cover
 - viii. Total Impervious Area
 - ix. Control release facilities showing cross-sections and profiles
- D. Final As-Built Drawings:
- i. Submitted in Autocadd DXF or DWG file format
 - ii. Show all revised contours and appropriate “spot elevations”
 - iii. Show location, length, sizes, pertinent elevations of the stormwater management system
 - iv. All impervious areas shall be accurately depicted
 - v. Failure to provide final as-built drawings within three months of substantial project completion will cause the utility to prepare these drawings. The responsible party shall be charged for this service. The Utility may extend this time as deemed necessary

(2) Design Standards:

- A. Flow rates shall be calculated by use of the Rational Method unless sufficient justification for use of another method is approved by the Utility.
- B. The minimum “Time of Concentration” to be used in the calculations shall be six (6) minutes.
- C. The ABT & Grigg Method shall be used to determine the volume necessary for detention. Detention structures shall be designed in such a manner that the post-construction peak runoff rate of flow shall be equal to or less than the pre-construction peak runoff of flow rate for 2-year/24-hour, 10-year/24-hour and 25-year/24-hour storms. In redevelopment projects, a peak runoff reduction of 10% from the preexisting peak runoff rate of flow must be achieved. However, no reduction shall be required beyond the peak runoff rate of flow that would occur from the parcel in its natural, undeveloped state.

- (3) Design Backup:
 - A. Calculations of volumetric runoff and peak runoff rate of flow for both pre-development and post-development.
 - B. Calculations for stormwater detention/retention facility and other system elements.
 - C. Operation and Maintenance Manual for private stormwater control facilities.
- (4) Sedimentation and Erosion Control measures are required. Refer to the most current edition of The West Virginia Department of Environmental Protection Sedimentation and Erosion Control manual for acceptable means and methods.

(i) All development and/or redevelopment projects shall minimize the impact to the water environment by applying structural and/or non-structural management practices selected to address site-specific conditions. The minimum requirement for runoff water quality treatment shall be a reduction of 80% of the average post-development total suspended solids and a reduction of 40% of the average post-development phosphorus load.

(j) No construction shall be performed in a manner that will negatively impact the water environment in the vicinity of construction or in other areas, regardless of whether this impact is manifested by flow restrictions, increased runoff, diminishing channel or floodplain storage capacity, harm to aquatic life or any other manifestation of negative impact.

(k) New construction or reconstruction shall be permitted only after temporary or permanent erosion and sediment control management practices have been placed and are operational to the satisfaction of the Utility. The Utility may halt construction, void a permit, or take other enforcement actions consistent with this ordinance upon a finding of inadequate erosion and sediment control management practices upon a site or property subject to the provisions of this ordinance.

(l) All active construction sites shall be inspected by the owner no less than weekly and within 24 hours after a 0.25 inch rain event to ensure and verify effective erosion and sediment control. The owner shall maintain records of these inspections. The Utility may halt construction on properties that do not provide satisfactory proof of compliance with this requirement.

(m) The Owner of a completed new development and/or redevelopment construction shall submit to the Utility within thirty (30) days of substantial project completion and "as-built" plans of the stormwater management facilities located upon the property/site.

(n)

- 1. The Utility may not waive the minimum requirements for stormwater management of water quality protection.

2. The applicant shall satisfy stormwater management requirements by accomplishing a mitigation measure approved by the Utility. Mitigation measures may include, but are not limited to, the following:
 - A. Alternative means for on-site management of stormwater discharges that have been established in a stormwater management plan that has been approved by the Utility.
 - B. The creation of appropriately designed and constructed stormwater management facility or drainage improvements on other properties, public or private, that currently lack stormwater management facilities. This alternative facility must provide a level of stormwater control that is equal to or greater than the minimum requirements and there must be a legally obligated entity responsible for the long-term operation and maintenance of the off-site practice. The Utility shall, to the maximum extent practical, ensure that the benefits arising from the off-site practice shall be realized in the same basin/watershed as the minimum management practice.
 - C. The purchase and donation of privately owned lands to the City of Weirton or the grant of an easement to the City of Weirton, to be dedicated to preservation reforestation and/or the creation of green space, wetlands, or permanent buffer areas to protect water quality and aquatic habitat.

Any mitigation measure shall provide a level of environmental protection and/or improvement that is, in the sole discretion of the Utility, approximately equal to or greater than that which would have been provided by the minimum practice.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 956.18 Maintenance of Stormwater Facilities:

(a) Private stormwater facilities located in private property and within the service area as defined by this Article shall be maintained by the owner or other responsible party and shall be repaired and/or replaced by such person when such facilities are no longer functioning as designed.

(b) Disposal of waste from maintenance of private facilities shall be conducted in accordance with applicable federal, state, and local laws and regulations.

(c) Records of installation and maintenance and repair shall be retained by the owner or other responsible party for a period of five (5) years and shall be made available to the Utility upon request.

(d) The Utility may perform corrective or maintenance work, which shall be at the owner's expense, upon any failure to maintain facilities or correct problems with facilities after receiving due reasonable notice from the Utility.

(e) Routine maintenance of detention/retention facilities shall be conducted by the owner of the facility in accordance with this Article and guidance of the Utility.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 956.19 Inspection:

(a) Stormwater systems within the service area shall be inspected by the Utility during and after construction to assure consistency with the approved stormwater management plan.

(b) All stormwater systems within the service area shall be subject to the authority of the Utility to ensure compliance with this Article and may be inspected when deemed necessary.

(c) The owner of a private stormwater system, or other responsible party designated by the owner, shall make annual inspections of the facilities, including any detention/retention facility, and maintain records of such inspections for a period of five (5) years.

(d) Whenever necessary to make an inspection to enforce any of the provisions of this Article, or whenever the Utility has reasonable cause to believe that there exists in any building or upon any premises any condition which may constitute a violation of the provisions of this Article, the Utility may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed by this Article; provided that (1) if such building or premises is occupied, the Utility's representative first shall present proper credentials and request entry; and (2) if such building or premises is unoccupied, the Utility's representative first shall make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry.

(e) The property owner or occupant has the right to refuse entry but, in the event such entry is refused, the Utility is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry and performing such inspection.

(f) Routine or area inspections shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of this Article, including but not limited to, random sampling and/or sampling in areas with evidence of stormwater pollution, illicit discharges, or similar factors.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 956.20 Sampling:

With the consent of the owner or occupant or with Court order, the Utility may establish on any property such devices as are necessary to conduct sampling or metering operations. During all inspections as provided herein, the Utility may take any samples deemed necessary to aid in the pursuit of the inquiry or to record the on-site activities, provided that owners or occupants shall be entitled to split samples.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 956.21 Testing and Monitoring:

(a) Whenever the Utility determines that any person engaged in any activity and/or owning or operating any facility may cause or contribute to stormwater pollution or illicit discharges to the stormwater system, the Utility may, by written notice, order that such person undertake such monitoring activities and/or analyses and furnish such reports as the Utility may require. The written notice shall be served either in person or by certified or registered mail, return receipt requested, and shall set forth the basis for such order and shall particularly describe the monitoring activities and/or analyses and reports required. The burden to be borne by the owner or operator, including costs of these activities, analyses and reports, shall bear a reasonable relationship to the need for the monitoring, analyses and reports and the benefits to be obtained. The recipient of such order shall undertake and provide the monitoring, analyses and reports within the time frames set forth in the Order.

(b) In the event the owner or operator of a facility or property fails to conduct the monitoring and/or analyses and furnish the reports required by the Order in the time frames set forth therein, the Utility may cause such monitoring and/or analyses to occur. If a violation is found, the Utility may assess all costs incurred, including reasonable administrative costs and attorney's fees, to the owner or operator. The Utility may pursue judicial action to enforce the Order and recover all costs incurred.

(c) The Utility shall promulgate a regulation detailing a process by which the person alleged to be engaging in an activity causing or contributing to pollution or illicit discharges shall receive notice and an opportunity to appeal/contest said allegations pursuant to § 933.86, the appeal provisions of this Article.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 956.22 Concealment:

Causing, permitting, aiding, abetting or concealing a violation of any provision of this Article shall constitute a violation of such provision.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 956.23 Enforcement:

(a) No person shall cause or allow any discharge into the municipal separate storm sewer system in violation of the City's NPDES permit, the Clean Water Act and/or this Article.

(b) No person shall construct or maintain any property, residence or business not in compliance with the standards of this Article and/or the Clean Water Act.

(c) Authorized representatives of the City bearing proper credentials and identification shall be permitted, after reasonable notice, to enter upon all properties in the municipal watershed for the purposes of inspection, observation, measurement, sampling and testing in accordance with this Article.

(d) No person or firm shall fail to provide any report or other information or perform any duty required by this Article.

(e) The Utility is authorized to issue notices of violations, orders and citations, and to impose civil penalties provided in this Article.

(f) Notice of a violation of this Article shall be served upon the alleged violator by personal service or by certified mail, return receipt requested. The notice shall state the nature of the violation, the potential penalty, the action required to correct the violation, and a time limit for making the correction.

(g) If, after the required notice, a person refuses to comply with this Article within the time limit included in the notice, the Utility may cause the work to be done to obtain compliance and shall charge the cost of that work to the person responsible for the violation. The responsible person shall pay in full the charged amount within thirty (30) days of the invoice date, or otherwise make arrangements acceptable to the Utility, for full payment of the invoiced amount. If full payment is not received within thirty (30) days of the invoice date, the Utility may institute a civil action in a court of competent jurisdiction to recover the invoiced costs and associated attorney's fees, court costs and other expenses.

(h) A civil penalty up to the maximum permitted by the Constitution and laws of the State of not less than \$50.00 or not more than \$5,000 per day for each violation may be assessed by the Utility against any person or firm who has violated or continues to violate any section of this Article or any of the following:

- (1) Failing to comply with a valid order issued under this Article; and/or
- (2) Failing to allow entry, inspection or monitoring; and/or
- (3) Violation of reporting requirements or falsification of reports.

In determining the amount of the assessment, the Utility shall consider all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, the compliance history of the violator, the economic benefit gained by the violator as a result of the violation, the cost to the City as a result of the violation, and any other relevant factor.

(i) The Utility may recover from a violator reasonable attorney's fees, court costs and other expenses associated with the enforcement of this Article, as well as the cost of actual damages incurred by the City.

(j) Civil penalties assessed hereunder are intended to protect the public health, safety and welfare by protecting the waters of the state from contamination. If a person or entity fails or refuses to remedy a violation, a penalty pursuant to this article may be assessed per diem until the violation is corrected or remedied.

(k) The Utility is authorized to take all steps necessary to immediately and without prior notice halt any discharge of pollutants which reasonably appear to present an imminent danger to the health or welfare of persons or to the environment of the watershed. A person or entity causing such discharge shall immediately eliminate the violation. If such person or entity fails to immediately eliminate the violation, the Utility may take all steps necessary to eliminate the discharge.

(l) Any person against whom an assessment or order has been issued may secure a review of the assessment or order by filing with the Utility a written petition setting forth the grounds and reasons for the objection(s) and asking for a hearing before the City Council. If a written petition is not filed within thirty (30) days after the date the assessment or order is served, the violator shall be deemed to have consented to the assessment or order and it shall become final.

(m) Within ten (10) days of receipt of a request for an appeal of an assessment or action of the Utility, the Utility shall issue a report and recommendation to the City Council regarding the appeal, and provide the appellant a copy of the report. Within thirty (30) days of a filed appeal of an assessment or action, the City Council shall conduct an administrative hearing regarding the alleged violation and resulting assessment. At said hearing, the City Council may hear additional evidence and may revoke, affirm or modify the appealed assessment.

(n) An assessment and ancillary costs, unpaid after thirty (30) days following issue by the Utility and not otherwise timely appealed, shall be grounds for termination of water service. In the alternative, and at the discretion of the Utility, the Utility may apply to a court of competent jurisdiction for a judgment and seek execution of the judgment, and the court in such proceedings shall treat the failure to appeal the assessment as a confession of judgment in the amount of the assessment.

(o) When the Utility finds that a person or entity has violated or continues to violate any section of this Article, the Utility may petition a court of competent jurisdiction for the issuance of a permanent or temporary injunction, as appropriate, which restrains or compels specific compliance with this Article and/or an order issued by the Utility. The Utility may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement that the person or entity conduct an environmental remediation. A petition for injunctive relief shall not be a bar against or a prerequisite for taking any other action against the person or entity.

In addition to the other enforcement powers and remedies established by this Article, the Utility has the authority to utilize any of the remedies or sanctions authorized by West Virginia law and this Code that, in its judgment, will effectively protect the City watershed and comply with federal and state laws and regulations.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 956.24 Nonexclusively of Remedies:

Remedies under this Article are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 956.25 Appeal:

The City Council shall act as the review body available to any user or prospective user aggrieved by a decision, act or inaction of the stormwater utility. City Council shall act as the final body to review any such appeal.

State law reference: W. Va. Code §§ 16-13-2, 16-13-22.

Sec. 956.26 Disclaimer of Liability:

The degree of protection required by this Article is considered reasonable for regulatory purposes. The standards set forth herein are minimum standards and this Article does not imply that compliance will ensure that there will be no unauthorized discharge of pollutants into the waters of the State or no damage to real or personal property within the service area. This Article shall not create liability on the part of the City, any agent or employee thereof for any damages that result from reliance on this Article or any administrative decision lawfully made there under.

This Ordinance shall become effective immediately upon passage of its second reading.

First Reading: May 12, 2014

Publication Date: June 4, 2014

Second Reading: June 9, 2014

Mayor

ATTEST:

City Clerk

Sponsored by Councilmen Dalrymple and Wright