

AN ORDINANCE ENACTING ARTICLE 31 OF THE CITY OF WESTON CODE, AS THE SAME APPLIES TO STORMWATER MANAGEMENT AND SURFACE WATER DISCHARGE CONTROL AND APPLICABLE RATES AND FEES.

WHEREAS, the 2001 West Virginia Legislature amended sections 8-20-1 et seq., and 16-13-1 et seq., of the West Virginia Code so as to authorize municipalities to regulate stormwater management and surface water discharge, in addition to waterworks and sewerage systems; 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 City of Weston has been designated by federal regulation as operating a regulated municipal separate storm sewer system; and,

WHEREAS, in order to comply with the law, it is necessary for the City of Weston to enact rules and regulations, as well as service fees, pertaining to the operation of its municipal separate storm sewer system.

NOW, THEREFORE, the City of Weston hereby ordains that Chapter 31, addressing stormwater management and surface water drainage control is added to its City Code and reads as follows:

CHAPTER 31

Stormwater Management and Surface Water Discharge Control.

Section 31-1 Definitions:

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

(a) "Best Management Practices (BMPs)" 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. BMPs may include schedules of activities, prohibition of practices, design standards, educational activities and treatment requirements.

(b) "City watershed" are those areas within the corporate limits of the City of Weston, and designated areas outside of those limits, over which surface water naturally drains into the City. Designation of areas outside of the corporate limits of the City of Weston shall be made by the City Council.

(c) "Director" is the General Manager of the City of Weston Sanitary Sewer Board.

(d) "Facility" for purposes of this Chapter 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.

- (e) "Flat rate charge" is a charge applicable to a user of the separate storm sewer system as defined herein and is an estimated cost of service provided to the user.
- (f) "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.
- (g) "Illicit connection" means any physical connection to a publicly maintained storm drain system which has not been permitted by the Director from the date of enactment of this ordinance.
- (h) "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 Chapter.
- (i) "Impervious area" is land area covered by buildings, pavement, compacted gravel or other material that significantly inhibits stormwater from penetrating the soil.
- (j) "Industrial sites" are those sites that contain industrial activities which require NPDES stormwater permits as set forth in 40 CFR 122.26(a)(6).
- (k) "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.
- (l) "Non-stormwater" is all flows to the stormwater system not defined as stormwater in this Chapter or as determined by the Director. This includes, but is not limited to, cooling water, process water, ground water from a purge well and swimming pool discharge.
- (m) "Pervious area" is all land area that is not impervious.
- (n) "Pollutant" means objects including, but not limited to, dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, grease, petroleum products, munitions, chemical waste, 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 coliform, 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.
- (o) "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.

(p) "Stormwater" is atmospheric precipitation, surface runoff water, ground water discharge, water from operation of the water distribution system, water used in firefighting, runoff from street sweeping, flows from footing drains and all other discharge sources identified in the City of Weston stormwater NPDES permit, except as may be defined as non-stormwater by this Article.

(q) "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.

(r) "Stormwater service charge" may be a flat rate charge estimated to be equal to a typical impervious area upon a class of property, a charge based on calculated/measured impervious area upon a property, and/or a non-stormwater user charge.

(s) "Stormwater system" is public and private stormwater sewers, drains, ditches, streets, retention/detention ponds, dams, river impoundments and flood control facilities used for collecting and transporting stormwater and non-stormwater.

(t) "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, whether within or outside the corporate limits of the City of Weston.

Section 31-2 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 required by 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 runoff 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.

Section 31-3 Stormwater Service Charges:

(a) Users connected to or draining into the public storm drainage system shall pay an equitable share of the actual cost of the operation, maintenance of, improvements to, and necessary additions to the stormwater system. Therefore, all owners or tenants of real property in the City of Weston and the designated City watershed shall be charged for the use of the stormwater system based on the amount of stormwater and rate of flow of stormwater which is projected to discharge into the stormwater system from the property.

(b) The City Council shall, by ordinance, set fees which will recover from users their fair share of costs for use of the stormwater system by property within and outside the corporate limits of the City of Weston and within the City watershed. Such fees collected will be used solely for the operation and maintenance of, improvements to, and necessary additions to, the stormwater system.

Section 31-4 Property Affected:

Except as provided in this Article, all real property shall be subject to the stormwater service charges regardless of whether privately or publicly owned.

Section 31-5 Flat Rate Charges:

The monthly service charge for users occupying a single family residential dwelling, as defined by the Director, shall be \$1.00. The City Council may, from time to time, by ordinance, change this service charge.

Section 31-6 Charges Based on Land Area:

The monthly service charge for properties other than described in section 31-5 shall be \$3.00 per building. After August 1, 2015 the monthly charges for properties other than described in section 31-5 shall be computed based upon the amount of impervious surface area upon the property, as determined by the Director.

Service charges for a multi-unit property shall be billed to each individual tenant upon the property in a fair and proportionate share of the total property service charge, if said tenant has an individual drinking water service meter. At the discretion of the property owner, or if the individual tenants do not have individual drinking water service meters, service charges for a multi-unit property may be billed to the property owner. A property owner exercising this choice must complete a written agreement as required by the Director.

The Director shall assign discount credits to those newly constructed properties employing volumetric flow reduction facilities. The Director may further assign discount credits to those existing properties employing rate of flow reduction practices.

The City Council may, from time to time, by ordinance, change these charges.

Section 31-7 Billing:

The billing for stormwater service may be combined with the billing for other utility services provided by the Weston Sanitary Sewer Board.

Section 31-8 Collection:

Unpaid stormwater service charges shall constitute just cause for disconnection of public water service to the non-paying property. The Director shall make an agreement with the water provider, approved by the Public Service Commission of West Virginia, to ensure that this service is provided. Costs charged to the Board of any disconnection service shall be the responsibility of the subject customer. The Director 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 Director. Costs charged to the Board of any reactivation shall be the responsibility of the subject customer. In the alternative, the Director may take appropriate legal action to collect unpaid charges.

Section 31-9 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.

Section 31-10 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 Director. The Director may refuse to grant approval to discharge non-stormwater into the stormwater system for any reason or combination of reasons.
- (c) The Weston Sanitary Board shall administer use of the stormwater system to all users within the City watershed, whether located within or outside City limits. This administration shall include all aspects of the stormwater management program and MS4 operations. However, the annual budget for these operations and capital projects estimated in value of greater than Five Thousand dollars (\$5,000) must be approved by ordinance or act of the Weston City Council.
- (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; or,
 - (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, ownership and/or 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 use the stormwater system for discharge from any environmental cleanup that is regulated under federal or state law unless approved by the Director. Approval by the Director 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 exfiltration into the ground adjacent to the system or failure of any pretreatment system for the discharge.

Section 31-11 Illicit Connections:

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.

Section 31-12 Outdoor Storage Areas:

No person shall store outdoors grease, oil or other hazardous substances in a manner that will or may result in such substances entering the stormwater system. No person shall store outdoors 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 Director 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.

Section 31-13 Erosion and Sediment from Construction Sites

(a) Any person performing construction work in the City of Weston shall comply with the provisions of this Article and shall provide erosion and sediment controls that effectively prevent discharges of pollutants to the stormwater system and/or receiving streams.

(b) Construction work shall mean any man-made activity which, either temporarily or permanently, disturbs, grades, excavates, occupies or otherwise affects the land such that the soil, or any other natural non-vegetative earthen material, is exposed and/or potentially transported into the water environment through the mechanisms of erosion or sedimentation.

(c) The Sanitary Board may establish standards and guidelines for implementing BMPs intended to provide erosion and sediment controls for construction sites. Such standards and guidelines shall be at least as stringent as those promulgated by WVDEP, and shall be subject to review and approval by the City Council of Weston.

(d) The following activities shall be exempt from the requirements of this section.

(1) Residential gardens and/or flower beds of less than 1000 square feet of actual disturbed area;

(2) Additions or modifications to existing detached single-family dwellings of a size less than 1,000 square feet of actual disturbed area and

(3) Activities that result in an actual disturbed area of less than 1,000 square feet. However, a phased construction project shall be measured by the size of all planned or contemplated phases. Each phase may be required to meet the requirements of this article.

(4) Any exemption provided under this Section shall relieve only the requirement to apply for and obtain a stormwater Erosion and Sediment Permit. The activity must still be conducted in such a manner that pollution from erosion and sedimentation as a result of the activity is prevented.

(e) All construction work subject to the provisions of this article shall be required to obtain a stormwater Erosion and Sediment Permit unless exempted under the provisions of this Chapter. The Director shall issue a stormwater Erosion and Sediment Permit for plans that meet the requirements of this section and any other requirements of this Chapter.

(1) No City grading permit shall be issued without the approval of a stormwater Erosion and Sediment Permit issued under the provisions of this article, unless the Director has issued a formal Determination stating that a stormwater Erosion and Sediment Permit is not required. Processing of the application for a stormwater Erosion and Sediment Permit shall be coordinated with other City permits as provided in this Chapter.

(2) No City building permit that includes work subject to the provisions of this section shall be issued without the approval of a stormwater Erosion and Sediment Permit issued under the provisions of this article, unless the Director has issued a formal Determination stating that a stormwater Erosion and Sediment Permit is not required. Processing of the application for a stormwater Erosion and Sediment Permit shall be coordinated with other City permits as provided in this Chapter.

(f) Any construction work for which a stormwater Erosion and Sediment Permit is required shall implement the measures required by the stormwater Erosion and Sediment Permit as the first item of work to be performed, before any other aspect of the construction is begun.

(1) In the event that unique site conditions require some other aspect of the construction to be accomplished prior to implementation of the measures required by the stormwater Erosion and Sediment Permit, the Permittee shall be required, as a condition of the Permit, to provide and maintain temporary and / or phased measures so that the intent of this section is accomplished. In such cases, site work shall be planned and prioritized so that implementation of the full measures of the Permit shall be accomplished as soon as possible.

Section 31-14 Discharge of Pollutants:

Discharges from the following activities will not be considered a source of pollutants to waters of the state when properly managed: water line flushing and other 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 and non-profit group car washes, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges or flows from firefighting activities and training.

Section 31-15 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 Weston and/or the Weston Sanitary Board relating to such discharge as provided by applicable rules of law.

Section 31-16 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 Director 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.

Section 31-17 Construction upon Stormwater System:

(a) Only designated Weston Sanitary Board employees or parties authorized by the Director 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, main pipelines that collect and transmit stormwater from and/or across two or more properties; and,

(2) All taps or other connections from a private lateral to a public facility of the system.

(b) 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 Director.

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

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

(e) A party authorized by the Director to perform construction upon the public facilities of the stormwater system shall meet the following requirements prior to and throughout construction:

- (1) Compliance with all relevant Federal and State labor, employment and environmental laws; and,
- (2) Compliance with all relevant and applicable state laws regarding government construction contracts, including, but not limited to, WV Code §§ 5-22-1, et seq. And 21-5A-1, et seq.; and,
- (3) Full and active policy coverage as certified by the West Virginia Bureau of Employment Programs, Workers' Compensation Division; and,
- (4) Contractor's liability insurance, issued by an insurance company with a Best's rating of no less than "A" and certified to the satisfaction of the Director, which may include commercial general, automobile, umbrella and builders risk policies, naming the City of Weston and the Weston Sanitary Sewer Board as additional insureds. Policies and coverage limits and terms required shall be appropriate to the subject construction and shall be designated by the Director; and,
- (5) A construction bond, issued by an insurance company with a Best's rating of no less than "A" and certified to the satisfaction of the Director, equal to the estimated cost of the construction and for a term equal to the duration of the construction project. At the discretion of the Director, a bonded party may provide a cumulative general construction bond in satisfaction of this requirement; and,
- (6) A repair bond, issued by an insurance company with a Best's rating of no less than "A" and certified to the satisfaction of the Director, in an amount no more than the reasonable estimate of repair costs, as determined by the Director, and for a term of no longer than five years, beginning on the date of substantial project completion. At the discretion of the Director, a bonded party may provide a cumulative general construction bond in satisfaction of this requirement; and,
- (7) Certification of full compliance with all relevant state and local permitting and tax rules and regulations, certification of appropriate property rights to perform the construction, and conveyance to the City of Weston of appropriate property rights for the completed public facilities.
- (8) Nothing in sub-paragraphs 2, 3, 4, 5 and 6 shall apply to any situation where the Director shall come to an agreement with volunteer or a volunteer group doing work for a qualified not-for-profit entity, whereby the Director will provide engineering, technical or other services and the volunteers will provide the necessary labor without charge to, or liability upon, the City of Weston or the Weston Sanitary Sewer Board. The not-for-profit entity shall be responsible for all costs to the utility associated with such a project.

Section 31-18 Stormwater Taps:

- (a) The Director or a party authorized by the Director 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 Director. The applicant shall pay the full cost of the tap installation.
- (b) The Director may deny a tap application when the requested tap is proposed to an inadequate public facility.

Section 13-19 Enforcement:

- (a) No person shall construct or maintain any property, residence or business not in compliance with the standards of this Article.
- (b) The Director and other authorized employees of the City bearing proper credentials and identification shall be permitted, after reasonable notice, to enter upon all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this Article.
- (c) No person or firm shall fail to provide any report or other information or perform any duty required by this Article.
- (d) The Sanitary Board is authorized to take appropriate legal action to require compliance with this Article.
- (e) The Sanitary Board is authorized to enforce and collect upon the terms of a construction and/or repair bond in the event of default of the conditions described therein.
- (f) If, after reasonable notice, a person fails to comply with this Article, the Director may cause the work to be done to obtain compliance and shall charge the cost of that work to the person responsible. 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 Director, for full payment of the invoiced amount.
- (g) In addition to any other remedy, the Director, after thirty (30) calendar days written notice and five (5) calendar days' notice posted on the affected property, is authorized to disconnect water service, sanitary sewer and stormwater sewer services to any property in violation of this Article. The notice shall state that persons affected may within five (5) calendar days provide the Director with any information or reasons as to why services should not be disconnected.
- (h) The Director is authorized to take all steps necessary to immediately halt any discharge of pollutants which reasonably appear to present an imminent danger to the health or welfare of persons or to the environment.
- (i) Persons aggrieved by any determination by the Director in enforcing this Chapter may appeal that determination to the Weston Sanitary Board. Prosecution shall be stayed pending such appeal.
 - (1) When the Director finds that a person or entity has violated or continues to violate any section of this Chapter, the Director 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. The Director 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. The Director 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 Board and/or the City.

Section 13-20 Stormwater Management and Comprehensive Drainage Plans:

(a) The requirements and standards of this section shall apply to all new developments and redevelopment projects. 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.

(b) All new developments and redevelopment projects within the City watershed shall include stormwater management plans and comprehensive drainage plans as described in this section. These plans shall address stormwater management upon and be subject to the review and approval of the Director.

(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; and,

(2) Additions or modifications to existing detached single-family dwellings of a size less than 1,000 square feet; and,

(3) Activities that result in impervious surface area of less than 3,000 square feet, regardless of the ratio of impervious surface area to total site area. However, a phased construction project shall be measured by the size of all planned or contemplated phases. Each phase may be required to meet the requirements of this article.

(d) All new development and redevelopment subject to the provisions of this article shall be required to obtain a stormwater Management and Comprehensive Drainage Permit unless exempted under the provisions of this Chapter. The Director shall issue a stormwater Management and Comprehensive Drainage Permit for plans that meet the requirements of this section and any other requirements of this article. No City grading permit, or building permit which includes work subject to the provisions of this section, shall be issued without the approval of a stormwater Management and Comprehensive Drainage Permit issued under the provisions of this article, unless the Director has issued a formal Determination stating that a stormwater Management and Comprehensive Drainage Permit is not required. Processing of the application for a stormwater Management and Comprehensive Drainage Permit shall be coordinated with other City permits as provided in this Chapter.

(1) Any work for which a stormwater Management and Comprehensive Drainage Permit is required, shall implement the measures required by the stormwater Management and Comprehensive Drainage Permit as the first item of work to be performed, before any other aspect of the construction is begun.

(2) In the event that a stormwater Erosion and Sediment Permit is also required, the measures required by the Erosion and Sediment Permit shall be implemented first, and the measures required by the Management and Comprehensive Drainage Permit shall be implemented simultaneously, if possible, or immediately thereafter, so that no other aspect of the construction is begun until all stormwater permit requirements have been implemented.

(3) In the event that unique site conditions require some other aspect of the construction to be accomplished prior to implementation of the measures required by the stormwater Management and Comprehensive Drainage Permit, the Permittee shall be required, as a condition of the Permit, to provide and maintain temporary and / or phased measures so that the intent of this section is accomplished. In such cases, site work shall be planned and prioritized so that implementation of the full measures of the Permit shall be accomplished as soon as possible.

(e) Any permit issued under the provisions of this article shall be posted at the subject site during the time that such work is being performed, in such manner and at such place on such premises as the same may be readily seen and inspected by the police officers and other agents and officials of the City. In the event that any such permit so posted shall be removed, lost or destroyed, a duplicate thereof shall immediately be applied for to the Director.

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

(g) 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 ten percent (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.

(h) 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 seventy-five percent (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:

(i) (1) Descriptive Information:

A. Title block with:

1. Development name
2. Owner
3. Design firm
4. Legend
5. North arrow
6. Vicinity map
7. Scale
8. Sheet numbers
9. Date

B. Topographical features:

1. Original contours at intervals no greater than two vertical feet.
2. Existing drainage components, i.e., streams, ponds, pipes, etc.
3. Property boundary lines.
4. Existing streets, buildings, and utilities.
5. 100 year flood plain.
6. Off-site drainage entering site.

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:

1. Existing and proposed structures, roads, buildings, paved areas.
2. Existing and proposed stormwater management system and components including sizes, lengths, pertinent elevations, etc.
3. Where and how proposed stormwater management system will be connected to existing systems.
4. Location and grade of all swales including cross sections.
5. Location and design of all other Best Management Structures /Implementations.

6. 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.
7. Existing and proposed ground cover.
8. Total Impervious Area.
9. Control release facilities showing cross-sections and profiles.

D. Final as-built drawings:

1. Show location, length, sizes, pertinent elevations of the stormwater management system.
2. All impervious areas shall be accurately depicted.
3. 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 Director 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 method for determining the volume necessary for detention may be chosen by the Applicant, but such choice shall remain subject to the approval of the Director. 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.

D. Beginning on July 1, 2016, detention structures that have not been approved for construction 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 50-year/24-hour storms. 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.

(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

(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:

1. Development name
2. Owner
3. Design firm

4. Authorized registered professional engineer stamp, signature, and date.
5. Legend
6. North arrow
7. Vicinity map
8. Scale
9. Sheet numbers
10. Date
11. Revision numbers and dates

B. Topographical features

1. Original and proposed contours at intervals no greater than 2 vertical feet.
2. Existing drainage components, i.e., streams, ponds, pipes, etc.
3. Property Boundary lines.
4. Existing streets, buildings, and utilities.
5. 100 year flood plain.
6. Off-site drainage entering site.
7. Original drawing no larger than 24-inch x 36-inch and at a scale from f-inch equals 10 feet to 1-inch equals 50 feet.

8. C. Site plan:

1. Existing and proposed structures, roads, buildings, paved areas.
2. Existing and proposed stormwater management system and components including sizes, lengths, pertinent elevations, etc.
3. Where and how proposed stormwater management system will be connected to existing systems.
4. Location and grade of all swales including cross sections.
5. Location and design of all other Best Management Structures/Implementations.
6. 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.
7. Existing and proposed ground cover.
8. Total Impervious Area
9. Control release facilities showing cross-sections and profiles.

D. Final as-built drawings:

1. Submitted in Autocadd DXF or DWG file format
2. Show all revised contours and appropriate "spot elevations"
3. Show location, length, sizes, pertinent elevations of the stormwater management system.
4. All impervious areas shall be accurately depicted.
5. 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 Director 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 method for determining the volume necessary for detention may be chosen by the Applicant, but such choice shall remain subject to the approval of the Director. 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 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.

D. Beginning on July 1, 2016, detention structures that have not been approved for construction 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 50-year/24-hour storms. In redevelopment projects, a peak runoff rate of flow reduction of 10% from the preexisting runoff 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.

(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 Director. The Director may halt construction, void a permit, or take other enforcement actions consistent with this section upon a finding of inadequate erosion and sediment control management practices upon a site or property subject to the provisions of this section.

(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 Director 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 Director within thirty (30) days of substantial project completion an "as-built" plan of

the stormwater management facilities located upon the property/site.

(n) Waivers for Providing Stormwater Management

1. Every applicant shall provide for stormwater management as required by this ordinance unless a waiver of these requirements is granted by the Sanitary Board. A written request for waiver must be submitted to the Board in a form that it prescribes.

2. Neither the Board nor the Director may not waive the minimum requirements for stormwater management of water quality protection.

Any requirements beyond water quality protection may be waived by the Board, if it finds that meeting the minimum on-site stormwater management requirements is not feasible due to the unique natural or existing physical characteristics of a site, or that the property owner would suffer an undue hardship if required to meet the full requirements of this regulation. To be eligible for a waiver, the applicant must also demonstrate to the satisfaction of the Board that the waiver will not result in any of the following impacts to downstream waterways:

- A. Deterioration of existing culverts, bridges, dams, and other structures;
- B. Degradation of biological functions or habitat;
- C. Accelerated stream bank or streambed erosion; or,
- D. Increased threat of flood damage to public health, life and/or property.

4. Where compliance with the full requirements for on-site stormwater management is waived, the applicant shall satisfy stormwater management requirements by accomplishing a mitigation measure approved by the Stormwater Board. 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 Director.

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 that which would be afforded by the waived on-site practices and there must be a legally obligated entity responsible for the long-term operation and maintenance of the off-site practice. The Director 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 waived management practice.

C. The purchase and donation of privately owned lands to the City or the grant of an easement to the City, 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.

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

(o) Impervious areas measured for determining the requirements of this section, or for assessing compliance with the requirements of this section, shall be determined using the highest combination of proposed/constructed impervious area plus any additional proposed/actual disturbed area in excess of the proposed/constructed impervious footprint.

(p) Disturbed areas measured for determining the requirements of this section, or for assessing compliance with the requirements of this section, shall include areas for which vegetative cover has been, or will be, altered, reduced, or eliminated and for which a change in runoff characteristics may be reasonably determined.

Section 31-21 Stormwater Design Manual:

(a) The Sanitary Board may furnish additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements of this article and may provide such information in the form of a Stormwater Design Manual.

(b) This manual will include a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. The manual may be updated and expanded from time to time, at the discretion of the Board, 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 31-22 Plan Submission and Review Process:

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 section, no building permit shall be issued without an approved stormwater management plan is required under this Article.

Section 31-23 Maintenance of Stormwater Facilities:

(a) Private stormwater facilities located in private property and within the City watershed 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 Director upon request.

(d) The Director 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 Director.

(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 Director.

Section 31-24 Inspection:

(a) Stormwater systems within the City watershed shall be inspected by the Director during and after construction to assure consistency with the approved stormwater management plan ensure compliance with this Chapter.

(b) 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.

(c) Whenever necessary to make an inspection to enforce any of the provisions of this Chapter, or whenever the Director 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 Chapter, the Director may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed by this Chapter; provided that

(1) If such building or premises is occupied, he or she first shall present proper credentials and request entry; and (2) if such building or premises is unoccupied, he or she 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.

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

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

Section 31-25 Sampling:

With the consent of the owner or occupant or with Court order, the Director may establish on any property such devices as are necessary to conduct sampling or metering operations. During all inspections as provided herein, the Director 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.

Section 31-26 Testing and Monitoring:

(a) Whenever the Director 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 Director may, by written notice, order that such person undertake such monitoring activities and/or analyses and furnish such reports as the Director 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) Within twenty (20) days of the date of receipt of the order, the recipient shall respond personally or in writing advising the Director of the recipients' position with respect to the Order's requirements. Thereafter, the recipient shall be given the opportunity to meet with the Director to review the Order's requirements and revise the Order as the Director may deem necessary. Within ten (10) days of such meeting, the Director shall issue a final written order. Final Orders issued pursuant to this Section may be appealed to the Weston Sanitary Board by the filing of a written appeal with the Board within ten (10) days of receipt of the final Order. The appeal notice shall set forth the particular Order requirements or issues being appealed. The Board shall hear the appeal at its earliest practical date and may either affirm, revoke or modify the Order. The decision of the Board shall be final, but may be subject to review by City Council and/or a Court of competent jurisdiction.

(c) 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 Director may cause such monitoring and/or analyses to occur. If a violation is found, the Director may assess all costs incurred, including reasonable administrative costs and attorney's fees, to the owner or operator. The Director may pursue judicial action to enforce the Order and recover all costs incurred.

Section 31-27 Concealment:

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

Section 31-28 Acts Resulting in Violation of Federal Clean Water Act:

Any person who violates any provision of this Chapter, or who discharges waste or wastewater which causes pollution, or who violates any cease and desist order, prohibition, or effluent limitation, also may be in violation of the federal Clean Water Act and may be subject to the sanctions of that Act including civil and criminal penalties.

Section 31-29 Violations Deemed a Public Nuisance:

(a) In addition to the penalties hereinbefore provided, any condition caused or permitted to exist in violation of any of the provisions of this Chapter shall be considered a threat to the public health, safety, welfare and the environment, may be declared and deemed a nuisance by the Director and may be

summarily abated and/or restored by the Director and/or civil action taken to abate, enjoin or otherwise compel the cessation of such nuisance

(b) The cost of such abatement and/or restoration shall be borne by the owner of the property and the cost thereof shall be a lien upon and against the property and such lien shall continue in existence until the same shall be paid.

(c) If any violation of this Chapter constitutes a seasonal and recurrent nuisance, the Director shall so declare. Thereafter such seasonal and recurrent nuisance shall be abated every year without the necessity of any further declaration.

(d) In any administrative or civil proceeding under this Article in which the City or its agent prevails, the City or its agent may be awarded all costs of investigation, administrative overhead, out-of-pocket expenses, costs of administrative hearings, costs of suit and reasonable attorneys' fees.

Section 31-30 Administrative Enforcement Powers:

(a) In addition to the other enforcement powers and remedies established by this Article, the Director has the authority to utilize the following administrative remedies.

(1) Cease and Desist Orders. When the Director finds that a discharge has taken place or is likely to take place in violation of this Article, the Director may issue an order to cease and desist such discharge, or practice, or operation likely to cause such discharge and direct that those persons not complying shall: (a) comply with the requirement; (b) comply with a time schedule for compliance, and/or (c) take appropriate remedial or preventive action to prevent the violation from recurring.

(2) Notice to Clean. Whenever the Director finds any oil, earth dirt, grass, weeds, dead trees, tin cans, rubbish, refuse, waste or any other material of any kind, in or upon the sidewalk abutting or adjoining any parcel of land, or upon any parcel of land or grounds or in close proximity to any open drain or ditch channel, which may result in an increase in pollutants entering the storm drain system or a nonstormwater discharge to the storm drain system, he or she may give notice to the property owner remove and lawfully dispose of such material in any manner that he or she reasonably may provide. The recipient of such notice shall undertake the activities as described in the notice within the time frames set forth therein.

(3) In the event the owner or operator of a facility fails to conduct the activities as described in the notice, the Director may cause such required activities as described in the notice to be performed, and the cost thereof shall be assessed and invoiced to the owner of the property. If the invoice is not paid within sixty (60) days, a lien shall be placed upon and against the property.

Section 31-31 Nonexclusivity 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.

Section 31-32 Appeal:

Any person, firm, corporation or organization notified of non-compliance with this Article or required to perform monitoring, analyses, reporting and/or corrective activities who is aggrieved by the decision of the Director may appeal such decision in writing to the Weston Sanitary Board within ten (10) days following the effective date of the decision. Upon receipt of such request, the Board shall request a report and recommendation from the Director and shall set the matter for administrative hearing at the earliest practical date. At said hearing, the Board may hear additional evidence, and may revoke, affirm or modify the earlier decision. Such decision shall be final, subject to review by City council and/or appeal to a Court of competent jurisdiction.

Section 31-33 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. This Article shall not create liability on the part of the City, the Board, and/or any agent or employee thereof for any damages that result from reliance on this Article or any administrative decision lawfully made thereunder.

This Ordinance shall be effective upon date of adoption.

FIRST READING: June 3, 2013

SECOND READING: August 5, 2013

MAYOR

ADPOTED: August 5, 2013

FILED: August 5, 2013

Kristin Droppleman
CITY CLERK

RECORDED: August 5, 2013