

CITY OF WINFIELD

ORDINANCE 2016-2017-7

ARTICLE 930

WINFIELD STORMWATER MANAGEMENT AND SURFACE WATER DISCHARGE CONTROL

930.01. Definitions.

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

- (a) "Adverse Impact" means any deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.
- (b) "Applicant" means any person, firm, or governmental agency that executes the necessary forms to procure official approval of a project or a permit to carry out construction of a project.
- (c) "Agricultural land management activities" means those methods and procedures used in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources.
- (d) "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.
- (e) "Board" shall be the Winfield MS4 Stormwater Board appointed by the Mayor as approved by City of Winfield Council, to plan and implement the "Best Management Practices" for the City of Winfield and designated watershed area.
- (f) "City watershed" is designated areas within the corporate limits of the City of Winfield and areas outside of those limits, over which surface water drains into the City. Designation of areas, including those areas outside of the corporate limits of the City of Winfield, shall be made by the Director, City Council, or Board.
- (g) "Contiguous" means sharing a boundary or edge.
- (h) "Director" shall be the responsible person or persons appointed by the Winfield MS4 Stormwater Board to oversee the regulation of stormwater management, surface water discharge and erosion control.

- (i) “Design manual” means the adopted design manual incorporated by reference that serves as the official adopted guide for Stormwater management and Erosion Control principles, methods, practices and designs.
- (j) “Detention Structure” means a permanent structure for the storage of runoff, which is designed so as not to create a permanent pool of water.
- (k) “Direct Discharge” means the release of waters or stormwater to watercourses in the City of Winfield Watershed or waters of the State or wetlands of the same.
- (l) “Drainage area means that area, contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridgeline, or other line of demarcation so designated.
- (m) “Easement” means a grant or reservation by the owner of land for the use of such land by others for a specific purpose or purposes.
- (n) “Facility” for the 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 or upon the building, structure, installation, or site.
- (o) “Flat rate charge” is the charge applicable to a single-family dwelling per dwelling unit.
- (p) “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 groundwater.
- (q) “Grading” means any act by which soil is cleared, stripped, stockpiled, excavated, scarified, finned, or any combination thereof.
- (r) “Illicit connection” means any physical connection to a publicly maintained storm drain system which has not been allowed by the City of Winfield from the date of the enactment of this ordinance.
- (s) “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.
- (t) “Impervious area” is land area covered by buildings, pavement, gravel or other material that significantly inhibits stormwater from penetrating the soil.
- (u) “Industrial sites” are those sites that contain industrial activities which require NPDES stormwater permits as set forth in 40 CFR 122.26(a)(6) or (b) 14.
- (v) “Multi-unit property” is a residential, non-residential or commercial property of any size that has located upon the property two or residential or business occupants or tenants.
- (w) “MS4” means Municipal Separate Stormwater Systems
- (x) “Non-stormwater” is all flows to the stormwater system not defined as stormwater by this Article or as determined by the municipality. This includes, but is not limited to, cooling water, process water, ground water from a purge well and swimming pool discharge.
- (y) “NPDES (National Pollutant Discharge Elimination System) Permit” is established under section 402(p) of the Clean Water Act by the United States Congress to establish

regulations of stormwater discharges for municipalities with Separate Storm Sewer Systems (MS4s)

- (z) "Pervious area" is all land area that is not impervious.
- (aa) "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.
- (bb) "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.
- (cc) "Redevelopment" means any reconstruction, alteration, or improvement of land disturbance performed on any site or modification to an existing property that requires or would require a building permit under existing ordinances.
- (dd) "Retention structure" means a permanent structure that provides for the storage of runoff by means of a permanent pool for water.
- (ee) "Retrofitting" means the construction of a structural BMP in a previously developed area, the modification of an existing structural BMP, or the implementation of a nonstructural practice to improve water quality over current conditions.
- (ff) "Sediment" means soils or other surface materials transported or deposited by the action of wind, water, ice, or gravity as a product of erosion.
- (gg) "Site" means any tract, lot, or parcel of land, or combination of tracts, lots or parcels of land or any portions thereof, which may be contiguous or noncontiguous and in one ownership, and are contiguous or noncontiguous and in diverse ownership, and where development, land disturbance, redevelopment, retrofitting, or any modification or disturbance so designated by the City, is to be performed.
- (hh) "Stormwater" is atmospheric precipitation, surface runoff water, groundwater discharge, water from operation of the water distribution system, water used in fire fighting, runoff from street sweeping, flows from footing drains and all other discharge sources identified in the City of Winfield stormwater NPDES permit, except as may be defined as non-stormwater by this Article.
- (ii) "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 other hazards associated with flooding.

- (jj) “Stormwater service charge” is a flat rate charge, a charge based on land area, and/or a non-stormwater user charge.
- (kk) “Stormwater Management Plan” and “Erosion Control Plan” (SWMP & ECP) means that set of documents, maps, drawings, or other documents submitted by an Individual, Landowner, Developer, Homeowner, Homeowner Association, or their Assigns or by their Authority to the appropriate agencies in order to obtain a Stormwater NPDES Permit and that contains all the requisite information and specifications to obtain such permit(s).
- (ll) “Stormwater system” is public and private stormwater sewers, drains, ditches, streets, retention/detention ponds, dams, stream conveyances, river impoundments and flood control facilities used for collecting and transporting stormwater and non-stormwater within the City’s watershed.
- (mm) “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 Winfield.
- (nn) “Variance” means the modification of the minimum Stormwater Management and Erosion Control requirements for the specific circumstances such that strict adherence to the requirements would result in unnecessary hardship and not fulfill the intent of the Ordinance.
- (oo) “Watercourse” means any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine, or wash-in and including any adjacent area that is subject to inundation from overflow or floodwater.
- (pp) “Watershed” means the total drainage area that has been designated to have contribution runoff to a single point.

930.02. 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 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.
- (c) This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted.
- (d) The City shall administer, implement and enforce the duties imposed by this Article. Said duties may further be delegated to other entities acting in compliance with applicable ordinances.

930.03. General Requirements and Prohibitions.

- (a) The use of the stormwater collection system shall be the collection and transportation of stormwater.
- (b) No person(s), individuals(s), landowners(s), developers(s), operators(s) or their assigns(s) 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) No person(s), individual(s), landowner(s), developer(s), operator(s) or their assign(s) shall be allowed to develop or engage in land disturbing activities of any kind, on any lot, tract, parcel of land, or any portion thereof for residential, commercial, industrial, or institutional development, redevelopment, addition or modification without obtaining and providing the appropriate permits, including, but not limited to NPDES, Public Lands Corporation, Army Corps of Engineers, Stormwater management and Erosion Control Plan, or any/all documents, notices, agreements, bonds, or permits required by the City of Winfield, Putnam County, or the State of West Virginia to manage stormwater or any/all other land disturbing activities regulated by the City, County, or State.
- (d) The City of Winfield shall administer use of the stormwater system to all users within the City watershed, weather located within or outside City limits.
- (e) 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, other than non-toxic dye testing allowed by the Director for detection of illicit connections or locating connection within the storm system;
 - 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.
- (f) 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.
 - (g) No person shall throw, deposit, leave, maintain or cause to be thrown, deposited, left or maintained any refuse, rubbish, garbage, grease, petroleum products, yard waste including grass clippings and leaves, 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.
 - (h) 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.
 - (i) 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.

930.04. 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.

930.05. 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 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.

930.06. Construction Sites:

- (a) Any person(s), individual(s), landowner(s), developer(s), operator(s) or there assigns(s) that intend to develop or engage in land disturbing activities resulting in a land disturbance of 5,000 square feet or greater shall comply with provisions of this Article and shall provide erosion and sediment controls that effectively prevent discharges of pollutants to the stormwater system and must hold a pre-construction meeting with the Director prior to the initiation of any construction or land disturbing activities. Compliance with the current edition of the West Virginia Department of Environmental Protection publication, “West Virginia Erosion and Sediment Control Best Management Practice Manual” is the minimum standard to be met at construction sites. The Director may establish and enforce standards and guidelines implementing BMPs designed to provide erosion and sediment control from construction sites. These standards and guidelines shall include, at a minimum:
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 runoff is discharge from an active construction site.
 3. Stabilization and structural practices to prevent sedimentation and erosion.
 4. Stormwater management measures to 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 Director.
 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, and sanitary facilities.

930.07. Discharge of Pollutants.

Discharges from the following activities will not be considered a source of pollutants to waters of the state when properly managed: dechlorinated water line flushing and other discharges from potable water sources, landscape irrigation and lawn watering, irrigation water from agricultural sources, diverted stream flows, rising ground waters, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, foundation and footing 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, non-stormwater discharges covered by another NPDES Permit, flows from fire fighting activities, and street, parking lot, and sidewalk wash water used to control dust and routine external building wash down, that does not include detergents.

930.08. Discharge in Violation of Permit.

Any discharge that would cause a violation of a Municipal NPDES Permit or any amendments, revisions or reissuance thereof, 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 administrated or judicial enforcement action against the City of Winfield and/or the Winfield Sanitary Board relating to such discharges as provided the applicable rules of the law.

930.09. 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 crated a risk of discharge into the municipal stormwater system or into a receiving stream.

930.10. Construction.

- (a) Only designated City of Winfield and or Winfield 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) 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 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 or representatives as designated by the Director or City, at all times, and construction shall only occur during normal working hours of the Utility Board, unless otherwise approved by the Director. No facility constructed by an authorized party may be covered or connected to a public facility without specific authorization of the Director. The Director shall have the authority to assure that all terms and conditions are met to comply with subsection (e) of this section.
- (d) 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. 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 appropriate property rights for the completed public facilities.
5. Contractors' liability insurance, issued by an insurance company with a Best's rating of no less than "A" certified to the satisfaction of the Director, which may include commercial general, automobile, umbrella and builders risk policies, naming the City of Winfield and/or the City of Winfield MS4 Stormwater Board as additional insured. Policies and coverage limits and terms required shall be appropriate to the subject construction and shall be designated by the Director; and,
6. 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,
7. 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,
8. Nothing in sub-paragraphs (e) 2, 3, 4, 5, 6, and 7 shall apply to any situation where the Director shall come to an agreement with a 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 Winfield or the Winfield Sanitary Board. The not-for-profit entity shall be responsible for all costs to the utility associated with such a project and shall be assessed by the Director.

930.11. Stormwater Taps.

- (a) The Applicant will furnish and install their stormwater system tap of the size and at the location requested in writing by the applicant upon a form to be provided by the Director. The applicant shall pay the full cost of the tap fee of \$ 1,850.00.
- (b) The Director may deny a tap application when the requested tap is proposed to an inadequate public facility. A public facility shall be considered inadequate when, under expected wet weather conditions, that facility is calculated to be unable to effectively convey stormwater in a manner, and to a location, deemed appropriate by the Director.

930.12. Enforcement.

- (a) No person(s), individual(s), landowner(s), developer(s), operator(s), or their assign(s) 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. For BMPs maintained by the property owner or homeowner's Association, inspection and maintenance reports must be filed with the City of Winfield on an annual basis.
- (c) No person(s), individual(s), landowner(s), developer(s), operators(s), or their assigns(s) shall fail to provide any report or other information or perform any duty required by this Article.
- (d) The Director is authorized to take appropriate legal action to require compliance with this Article.
- (e) The Director is authorized to enforce and collect upon the terms of a construction and/or repair bond in the event of default or 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/or 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 of the Director in enforcing this Article may appeal that determination to the City or a court of proper jurisdiction. Prosecution shall be stayed pending such an appeal.

930.13. New Development/Re-Development stormwater management, Sediment & Erosion control, 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 designated City watershed shall include stormwater management plans and comprehensive drainage plans as described in this section. These plans shall be subject to the review of the Director, City Engineer, or designated representative 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
 - 2. Activities that result in impervious surface area of less than 5,000 square feet and do not result in a ground disturbance greater than one (1) acre, 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 projects are subject to the provisions of this article shall be required to obtain a stormwater permit unless exempted under the provisions of this Article. The Director shall issue a stormwater management permit for plans that meet the requirements of this section and any other requirements of this article. No City building permit shall be issued without the submission of a stormwater permit issued under the provisions of this article.
- (e) Technical, administrative or procedural matters may be modified by the Director as needed to meet the objectives and policies defined in this article, so long as such modifications are not contrary to or beyond the intent of the objectives and policies included in this article.
- (f) For construction that results in impervious area of 5,000 square feet and greater or a ground disturbance greater than one (1) acre, a Stormwater management and Erosion Control Plan will be required in order to qualify for a City stormwater permit. The plan shall include the following information:
 - 1. Descriptive information:
 - i. 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
- ii. Topographical features:
1. Original and proposed 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
 7. Original drawing no larger than 24-inches by 36 inches and at a scale from one inch equals ten feet to one inch equals 50 feet.
- iii. 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 the 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 Transportation Erosion and Sedimentation Control Handbook and the West Virginia Department of Environmental Protection Sediment and Erosion Control Best Management Practices Design 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.
- iv. Final as-built drawings:
1. Show location, length, sizes, and 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 may 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:
- i. Flow rates shall be calculated by use of the Rational Method unless sufficient justification for use of another method is approved by the Director.
 - ii. The minimum "Time of Concentration" to be used in the calculations shall be six minutes.
 - iii. 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 two-year/24-hour and ten-year/24-hour storms. Additional measures may be considered by the Director in critical areas of the City watershed. In redevelopment projects, a peak runoff reduction of ten percent 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.
 - iv. Development and/or redevelopment projects with a ground disturbance of one (1) acre or greater, including projects less than one (1) acre that are a part of a larger common plan of development or sale shall manage on site the first one (1) inch of rainfall from a 24-hr storm preceded by 48 hours of no measurable precipitation.
 1. A reduction of 0.2 inches from the one (1) inch runoff reduction standard may be applied for redevelopment, brownfield redevelopment, high density (> 7 units per acre), Vertical Density (Floor to area ratio (FAR) of 2 or > 18 units per acre), and mixed use and transit oriented development (within ½ mile of transit) projects. Reductions are additive up to a maximum of 0.75 inches for a project that meets four or more criteria.
 2. A project that is a potential hot spot with reasonable potential for pollutant loading(s) must provide water quality treatment for associated pollutants prior to managing the first one inch of rainfall.
 3. A project that is a potential hot spot with reasonable potential for pollutant loading(s) that cannot implement adequate preventive or water quality standards must properly convey stormwater via a license water hauler to a permitted treatment and disposal facility or to a NPDES-permitted wastewater facility.
 4. A project that discharges or proposed to discharge to any surface water or ground water that is used as a source of drinking water

must comply with all applicable requirements relating to source water protection.

3. Design backup:
 - i. Calculations of volumetric runoff and peak runoff rate of flow for both pre-development and post-development.
 - ii. Calculations for stormwater detention/retention facility and other system elements including description and rationale supporting the design methodology
 - iii. 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 Sediment and Erosion Control Manual for acceptable means and methods.
- (g) All development and/or redevelopment projects shall minimize the impact to the water environment by applying structural and/or nonstructural management practices selected to address site-specific conditions.
- (h) 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.
- (i) 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 satisfaction of the Director. The Director may halt construction, void a permit, or take other enforcement actions consistent with this Article upon a finding of inadequate erosion and sediment control management practices upon a site or property subject to the provisions of this Article.
- (j) All active construction sites shall be inspected by the owner no less than weekly and within 24 hours of a 0.5-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.
- (k) Waivers for Providing Stormwater Management:
1. Every applicant shall provide for stormwater management as required by this section, unless a waiver of these requirements is granted by the Director. A written request for waiver must be submitted to the Director in a form that he or she prescribes.
 2. A written request for waiver must be submitted to the Director in form that provides the following information:
 - i. Name of Developer;
 - ii. Mailing address;
 - iii. Phone number;

- iv. Location of development;
 - v. Describe the circumstances for requesting a waiver;
 - vi. Proposed alternative to meet compliance with Stormwater Ordinance related to environmental impact of construction.
3. If a comprehensive Watershed Management Plan has not been developed, then a waiver may be granted to specific projects on a case-by-case basis that do not increase the post-development peak discharge over that of the pre-development peak discharge for undisturbed land. The Director, with approval of the Board, may not waive the minimum for stormwater management of water quality protection as described in subsection (i) of this section.
 4. Any requirement beyond those described in subsection (i) of this section may be waived by the Director, if the Director 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 regulations. To be eligible for a waiver, the Applicant must also demonstrate to the satisfaction of the Director and the Board that the waiver will not result in any of the following impacts to downstream waterways:
 - i. Deterioration of existing culverts, bridges, dams, and other structures;
 - ii. Degradation of biological functions or habitat;
 - iii. Accelerated stream bank or streambed erosion; or,
 - iv. Increased threat of flood damage to public health, life and/or property.
 5. 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 Director. Mitigation measures may include, but are not limited to, the following:
 - i. Alternative means for onsite management of stormwater discharges that have been established in a stormwater management plan that has been approved by the Director.
 - ii. 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.
 - iii. 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.

- iv. 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.

- 6. Fee in Lieu of Stormwater Management Practices. Where the Director waives all or part of the minimum stormwater management requirements, and the applicant does not complete an approved mitigation project, the applicant shall be required to pay a fee in lieu of stormwater management practices, in an amount as determined by the Director. This amount shall be approximately equal to the cost of stormwater management and based on the cubic feet of storage required to stormwater management of the development in question. All of the monetary contributions shall be credited to an appropriate stormwater capital improvements program project, and shall be made by the applicant prior to the issuance of any stormwater permit for the development.

930.14. Drainage System Standards.

- (a) Drainage systems shall comply with the standards established by ordinance.

930.15. Plan Submission and Review Process.

- (a) New developments and redevelopments, stormwater management plans, and comprehensive drainage plans for construction or reconstruction within the city watershed shall be submitted to the Director. The plans shall be reviewed by the Director or an appropriate party as appointed by the Director 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.
- (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 section, no building permit shall be issued without an approved stormwater management plan if required under this Article.
 - 1. Applicable permits must be acquired from all Federal and State of West Virginia agencies. For development and/or redevelopment projects with a ground disturbance of one (1) acre and greater, the applicant must obtain a WV/NPDES construction stormwater general permit and provide registration number on plan submission documents.
 - 2. Applicable permits must be acquired by all Putnam County agencies, if applicable.

3. An application for Development/Plat or Redevelopment/Plat, including a Preliminary Plat Checklist and a Stormwater Management and Erosion Control plan must be submitted for review to the Director to be processed.
 4. A Stormwater management and Erosion Control BMP Maintenance Agreement must be filed with the Director prior to construction.
 5. A Stormwater Management and Erosion Control Plan Right-of-Way agreement must be filed with the Designated Manager Prior to construction.
- (c) Any grading or building permit issued by the City of Winfield may be suspended or revoked after written notice is given to the Permittee for any of the following reasons:
1. Violations of the conditions of the Stormwater Management and Erosion Control approved plan.
 2. Changes in site runoff characteristics upon which an approval or waiver was granted.
 3. Construction is not in accordance with the approved plan.
 4. Noncompliance with correction notice(s) or stop work order(s) issued during construction.
 5. An immediate danger exists in a downstream area in the opinion of the City of Winfield.
 6. Pollution or potential pollution to stormwater due to construction activities or improper material usage or storage at site that poses a risk to stormwater pollution.

930.16. Maintenance of Stormwater Facilities.

- (a) Private stormwater facilities located in private property within the City watershed and approved stormwater management practices from development/redevelopment projects subject to the requirements under Section 20. f. 2. iv. of this ordinance, 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) Maintenance, accountability, and operation agreements of approved stormwater management practices for private stormwater facilities located on private property within the City watershed and approved stormwater management practices from development/redevelopment projects subject to the requirements under Section 20.f.2.iv. of this ordinance, shall be included in the transfer or responsibility in leases and/or deed transfers or in the covenants and restrictions for residential properties assigning maintenance responsibilities to a home owner's associations, or other appropriate group, for maintenance of structural and treatment control
- (c) Disposal of waste from maintenance of private facilities shall be conducted in accordance with applicable federal, state and local laws and regulations.

- (d) Records of installation and maintenance and repair shall be retained by the owner or other responsible party of a period of five (5) years and shall be made available to the Director upon request.
- (e) The Director or its designee, may perform corrective or maintenance work may perform necessary maintenance or corrective actions neglected by the property owner/operator, and bill or recoup costs from the property owner/operator when the owner/operator has not performed the necessary maintenance within thirty (30) days of notification by the Director or City.
- (f) Routine maintenance of detention/retention facilities shall be conducted by the owner of the facility in accordance with the Article and guidance of the Director for compliance of this Article.

930.17. 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 plan.
- (b) All stormwater systems within the City watershed shall be subject to the authority of the Director 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 (5) years.
- (d) Whenever necessary to make an inspection to enforce any of the provisions of this Article, 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 violations of the provisions of this Article, the Director and/or persons as directed by the Director, 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, 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 of 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 Director is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry and performing such inspection or duty.
- (f) Routine or area inspection shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of the Article, including but not

limited to, random sampling and/or samples in areas with evidence of stormwater pollution, illicit discharges, or similar factors.

930.18. 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.

930.19. 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 of the facility, 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 as Determined by the Director.
- (b) Within twenty (20) days of the date of receipt of the order notice, 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 City of Winfield by the filing of a written appeal with the City 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 Utility Board shall hear the appeal at its earliest practical date and may either affirm, revoke, or modify the Order. The decision of the City of Winfield shall be final, but may be subject to review by 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, engineering fees, and/or attorney's fees, to the owner

or operator. The Director may pursue judicial action to enforce the Order and recover all costs incurred.

930.20. Concealment.

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

930.21. Acts Resulting in Violation of Federal Clean Water Act.

Any person who violates any provision of this Article, 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 sanction of that Act including civil and criminal penalties.

930.22. Violations.

- (a) When the Director finds that a discharge or action 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 comply with the requirement and comply with a time schedule for compliance. The Director shall provide notice to one in violation of this Article by personal notice or certified mail, return receipt requested. Said notice shall state the nature of the violation, the potential penalty, the action required to correct the violation, and the time period within which the corrective action must be taken.
- (b) If, after receipt of proper notice, a violator fails to timely make the required corrections, the Director may enter upon the subject property and make said corrections. Prior to beginning work, the Director shall present to the violator a good faith estimate of the cost of repair, which estimated cost shall be paid by the violator. Upon completion of construction, the actual cost shall be reconciled with the estimated cost, and the violator shall pay the balance due or be refunded the amount overpaid. In the event the violator refuses to pay the estimated or final actual cost, the cost of correction may be recovered in a civil action brought against the violator on behalf of the City.
- (c) In the alternative, and at the discretion of the City and/or the Director, a violator of this Article may be assessed a monetary fine, payable to the operating fund of the stormwater utility, in accordance with the following schedule:
 - 1. First violation: Notice to Correct.
 - 2. Second violation and/or failure to correct: \$200
 - 3. Third violation and/or continued failure to correct: \$1,000
 - 4. Fourth violation and/or continued failure to correct: \$2,500.

- (d) In addition to the penalties hereinbefore provided, any condition caused or permitted to exist in violation of any of the provisions of this Article shall be considered a threat to the public health, safety, welfare and/or the environment 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.
- (e) 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.
- (f) If any violation of this Article 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.
- (g) 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, engineering fees, out-of-pocket expenses, costs of administrative hearings, costs of suit and reasonable attorneys' fees.
- (h) These sanctions may be assessed against the user of the municipal separate stormwater system within the City watershed. The Municipal Court shall be the venue for violations occurring within the City political boundaries. The Putnam County Magistrate Court shall be the venue for the violations occurring within the City watershed and outside the political boundaries of the City.

930.23. Industrial or construction activity discharges.

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with this permit may be required in a form acceptable to the City prior to allowing discharges to the stormwater system.

930.24. Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has any information of any known or suspected release of materials, which are or may result in illegal discharges or pollutants discharging in stormwater, the storm drain system, or waters of the State of West Virginia, said person shall take all necessary steps to ensure the discover, containment and cleanup of the release. In the case of a release of hazardous material, he or she shall immediately notify emergency response agencies of the spill.

930.25. 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 proactive, 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 non-stormwater discharge to the storm drain system, he or she may give notice to the property owner to remove and lawfully dispose of such material in any manner that he or she reasonable 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. Prior to beginning work, the Director shall present to the violator a good faith estimate of the cost of clean-up, which estimated cost shall be paid by the violator. Upon completion of the clean-up, the actual cost shall be reconciled with the estimated cost, and the violator shall pay the balance due or be refunded the amount overpaid. In the event the violator refuses to pay the estimated or final actual cost within sixty (60) days of the invoice date, a lien may be placed upon and against the property and/or the cost of correction may be recovered in a civil action brought against the violator on behalf of the City.

930.26. Penalties.

- (a) Any person convicted of violating the provisions of this Article may be guilty of a misdemeanor and upon conviction thereof, may be subjected to a fine of not more than \$5,000 or imprisonment not exceeding one year or both for each violation with costs imposed at the discretion of the court.
- (b) Each day that the violation continues will be a separate offense.
- (c) The City of Winfield may institute injunctive, mandamus or other appropriate action or proceedings of the law to correct violations of this Article or seek temporary or permanent restraining orders, injunctions, mandamus other appropriate forms of relief.

930.27. 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.

930.28. 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 are aggrieved by the decision of the Director may appeal such decision in writing to the City 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 appeal to a Court of competent jurisdiction.

930.29. 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 non-authorized discharge of pollutants into the waters of the State. This Article shall not create liability on 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 thereunder.

930.30. Severability.

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person, establishment or circumstances shall be held invalid, such invalidity shall not invalidate the other provisions or application of this ordinance.

930.31. Adoption of Ordinance.

This ordinance was read before the City Council and shall be in full force and effect upon date of adoption as stated below:

FIRST READING: November 3, 2016

SECOND READING: December 13, 2016

THIRD READING & ADOPTION: January 10, 2017

Mayor

Recorder