

AN ORDINANCE OF COUNCIL AMENDING, MODIFYING AND RE-ENACTING ARTICLE 968 OF THE CODIFIED ORDINANCES OF THE CITY OF HUNTINGTON, AS REVISED, CONCERNING STORMWATER MANAGEMENT AND SURFACE WATER DISCHARGE CONTROL AND APPLICABLE RATES AND FEES.

WHEREAS, the West Virginia Legislature has authorized municipalities to regulate stormwater management and surface water discharge, as part of its public works program; 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 Huntington has been designated by federal law as a regulated municipal separate storm sewer system, and, as such, must comply with the regulatory requirements established under the Clean Water Act; and,

WHEREAS, accordingly, it is necessary for the City of Huntington to enact rules, regulations, and to collect service fees, pertaining to and funding stormwater management and surface water discharge control services.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA that Article 933 of the Codified Ordinances of the City of Huntington, as revised, are hereby AMENDED, MODIFIED AND RE-ENACTED to read as follows:

ARTICLE 968

Stormwater Management and Surface Water Discharge Control

Sec. 968.01. 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**" is the City of Huntington, West Virginia, and its duly elected and appointed officers and employees.

(c) "**Facility**" for purposes of this Article is a building, structure, installation or construction site in which pollutants are produced and/or generated as a result of an activity conducted within or around the building, structure or installation.

- (d) "**Flat rate charge**" is the charge applicable to any user, person, firm, corporation of governmental entity of any kind owning any building or structure, whether residential, commercial, governmental, or otherwise within the service area.
- (e) "**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.
- (f) "**Illicit connection**" means any physical connection to a publicly maintained storm drain system which has not been permitted or allowed by the City from the date of enactment of this ordinance.
- (g) "**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.
- (h) "**Impervious area**" is land area covered by any manmade surface that significantly inhibits stormwater from penetrating the soil. Impervious area includes managed turf and graveled surfaces.
- (i) "**Industrial sites**" are those sites that contain industrial activities which require NPDES stormwater permits as set forth in 40 CFR 122.26(a)(6).
- (j) "**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.
- (k) "**MS4**" means Municipal Separate Storm Sewer System. The City of Huntington is a regulated MS4 under the NPDES program.
- (l) "**NPDES**" means National Pollutant Discharge Elimination System. A permitting program with authority from the Clean Water Act.
- (m) "**Non-stormwater**" is all flows to the stormwater system not defined as stormwater in this Article or as determined by the City. This includes, but is not limited to, cooling water, process water, ground water from a purge well and swimming pool discharge.
- (n) "**Pervious area**" is all land area that is not impervious with the hydrologic capability for water to soak into ground.
- (o) "**Pollutant**" means objects including, but not limited to, dredged soil, solid waste, sewage, garbage, sewage sludge, grease, petroleum products, munitions, chemical waste, detergents, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, dirt, industrial, municipal and agricultural waste, gasses entrained in water, paints, oil and other automotive fluids, soil, rubbish, debris, materials containing fecal 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 and/or the degradation of water quality.

(p) "**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.

(q) "**Private facility**" is a stormwater facility not otherwise classified as a public facility as defined in below.

(r) "**Public facility**" is a stormwater facility that serves two or more properties, including, but not limited to, main pipelines that collect and transmit stormwater from and/or across two or more properties, and all taps or other connections onto a public facility. Public facilities that are privately owned upon enactment of this Article shall become publicly owned facilities, and thus the responsibility of the City, only upon conveyance by the private owner of the facilities and ancillary property rights and acceptance by the City of that conveyance.

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

(t) "**Service area**" is all areas within the political boundaries of the City of Huntington.

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

(v) "**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.

(w) "**Stormwater Facilities**" are stormwater control structures, best management practices and any facilities that manage, capture, infiltrate, filter, evapotranspire or otherwise treat stormwater runoff.

(x) "**Stormwater user fee**" is the monthly fee stormwater system users pay, based upon the square footage of buildings.

(y) "**Stormwater system**" is public and private stormwater sewers, drains, ditches, streets, stormwater control structures, retention/detention structures, dams, river impoundments used for collecting, managing, and transporting stormwater and non-stormwater.

(z) "**User**" is a firm, person or corporation or government entity who is the legal owner or occupant of a property that directly or indirectly contributes stormwater or non-stormwater flows to the stormwater system, within the service area of the City as defined by this Article.

Sec. 968.02. 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 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.
- (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 control non-stormwater discharges to drain systems.
- (5) To fully comply with federal and state statutory and regulatory requirements and schedules regarding stormwater management and the water quality of the receiving streams.

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

Sec. 968.03. Stormwater User Fees and Service Charges:

- (a) Users connected to or draining into the public storm drainage system shall pay the stormwater service charge for 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 Huntington and designated portions of the City watershed ("the service area") shall be charged for the use of the stormwater system.
- (b) The City Council shall, by ordinance, set stormwater user fees which will recover from users a portion of the costs for use of the stormwater system by property owners within the service area. Such stormwater service fees will be for the operation and maintenance of, improvements to, necessary additions to, and regulatory compliance of the stormwater system and stormwater management program.
- (c) The City Council may establish and enforce service fees to be charged and collected for services rendered by the City of Huntington, its employees or designated agents, including, but not limited to, fees for permit application, stormwater management plan review, inspection, and other services.

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

Sec. 968.04. Property Affected:

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

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

Sec. 968.05. Flat Rate Charges:

The monthly start-up stormwater service fee for users shall be established upon the square footage of buildings. These stormwater user fees shall be:

Square Ft	Flat Rate
1 - 1000	\$4.00
1,001 – 2,500	6.00
2,500 – 5,000	7.00
5,001 – 10,000	16.00
10,001 – 50,000	25.00
50,001 – 100,000	50.00
100,001 and greater	100.00

The City Council may, from time to time, by ordinance, change these flat rate stormwater user fees.

The City shall assign discount credits to those newly constructed properties employing volumetric flow reduction facilities, and to those existing properties employing volume and/or rate of flow reduction practices. The credits may be made available only with adequate mapping and research by the City, and may be reasonably delayed pending the fulfillment of these prerequisites.

State law reference: W. Va. Code §§ 8-16-18, 16-13-16, 16-13-17, 16-17-23 (a).

Sec. 968.06. Billing:

The billing for stormwater services described herein may be combined with the billing for other services provided by the City.

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

Sec. 968.07. Collection:

The City shall assess interest and penalties upon unpaid and past due stormwater user fees and service charges, and to act as deemed appropriate to enforce collection of unpaid fees and charges. Unpaid stormwater fees and charges shall constitute just cause for disconnection of public water service to the non-paying property. The City shall make an agreement with the public water

provider to accomplish these purposes, and shall further ensure sufficient notice of disconnection is made 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 City. The City may also take appropriate legal action to collect unpaid charges, including, but not limited to, placing a lien upon the subject property and/or bringing a civil action in a court of competent jurisdiction to recover unpaid charges and fees.

Special consideration for financial hardships will be considered upon application to the Finance Director. Applicants will be required to provide documentation of economic circumstances in order to qualify for consideration. Any reductions or waivers in fees will be administered in accordance with state and local law.

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

Sec. 968.08. Use of Funds:

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

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

Sec. 968.09. 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 City. The City may refuse to grant approval to discharge non-stormwater into the stormwater system for any reason or combination of reasons.
- (c) The City shall administer use of the stormwater system to all users within the service area as defined by this Article.
- (d) No person shall cause or permit the introduction of any pollutant into the stormwater system, whether solid, liquid or gaseous, that will cause:
 - (1) Chemical reaction, either directly or indirectly with the materials of construction used in the stormwater system or that will impair the strength or durability of sewers or structures;
 - (2) Mechanical action that will destroy or damage sewers or structures;
 - (3) Restriction of the normal maintenance and inspection of sewers;
 - (4) Danger to public health and safety or to the environment;
 - (5) Conditions that create a public nuisance;
 - (6) An oil sheen or unusual color;
 - (7) Abnormal demand on the stormwater system capacity; 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 stormwater control practices to reduce such pollutants. Examples of such activities include, but are not limited to, compliant operation of facilities that may be a source of pollutants, such as paved parking lots, gasoline stations, industrial facilities, and private roads/streets.

(f) No person shall throw, deposit, leave, maintain or cause to be thrown, deposited, left or maintained any refuse, rubbish, grass clippings, leaves, 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, stream, 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.

(f) 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 City. Approval by the City must be conditioned upon the discharge meeting all criteria for discharge under this Article. 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.

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

Sec. 968.10. Illicit Connections:

It is prohibited to establish, use, maintain or continue illicit connections to the municipal stormwater system.

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

Sec. 968.11. Storage 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. 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 City may require the installation of a spill containment system. Spill containment systems may consist of a system of dikes, walls, barriers, berms, or other devices as required. No person shall operate a spill containment system such that it allows incompatible liquids to mix and thereby create a hazardous condition.

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

Sec. 968.12. Discharge of Pollutants:

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

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

Sec. 968.13. Discharge in Violation of Permit:

Any discharge that would cause a violation of any NPDES permit assigned to the City of Huntington 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 Huntington relating to such discharge as provided by applicable rules of law.

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

Sec. 968.14. Stormwater System Construction:

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

(1) Those facilities that serve two or more properties, including, but not limited to, stormwater system facilities that collect and transmit stormwater from and/or across two or more properties; and,

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

(b) All 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/or 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 City.

(c) Parties authorized by the City to perform construction of or upon the public facilities of the stormwater system shall comply with the design and construction standards required by the City. These parties shall allow for inspection of the construction by the City at all times, and construction shall only occur during normal working hours of the City unless otherwise authorized by the City. No facility constructed by an authorized party may be covered or connected to a public facility

without specific authorization of the City. This authority shall be granted by the City upon satisfaction of the design and construction standards required by the City.

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

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

Sec. 968.15. Stormwater Taps:

(a) The City or a party authorized by the City 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 City. The applicant shall pay the full and actual cost of the tap installation.

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

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

Sec. 968.16. Enforcement:

(a) No person shall construct or maintain any property, residence or business not in compliance with the standards of this Article.

(b) Authorized City employees 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 City is authorized to take appropriate legal action to require compliance with this Article.

(e) The City 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 City 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 City, for full payment of the invoiced amount.

(g) The City 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.

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

Sec. 968.17. Stormwater Management and Comprehensive Drainage Plans:

The City shall require all new development and redevelopment 5000 ft² or greater to develop stormwater management and comprehensive drainage plans that are in compliance with existing ordinances and policies.

The City shall update existing stormwater management and drainage ordinances and policies as the need arises.

The City shall promulgate regulations providing for specific requirements and standards for stormwater management and drainage upon all new development and redevelopment projects. These regulations shall be written to minimize the discharge and transport of pollutants to storm drain systems and prevent the deterioration of water quality. These regulations shall address and satisfy all federal and state statutory and regulatory requirements.

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

Sec. 968.18. Drainage System Standards:

Drainage systems shall comply with the standards established by the City.

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

Sec. 968.19. Plan Submission and Review Process:

(a) For all new development and redevelopment projects 5000 ft² or greater; stormwater management plans and comprehensive drainage plans for any new construction or reconstruction within the service areas defined by this Article shall be submitted to the City. The plans shall be reviewed by the City 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 and applicable policies. If the City employs outside services for plan review, the cost of that review shall be paid by the Applicant.

(b) The plan submission and review process shall be coordinated with and integrated into the City planning and permitting process. Following the effective date of this Article, no building permit shall be issued without an approved stormwater management plan if required under this Article. Within thirty (30) days of receipt of a complete stormwater management site plan, the City will either approve or deny the proposed stormwater management components.

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

Sec. 968.20. Maintenance of Stormwater Facilities:

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

(b) Developers of projects 5000 ft² or greater shall develop a maintenance agreement and maintenance plan for all City approved stormwater facilities. A draft maintenance agreement and

plan shall be provided to the City during the review process. The executed maintenance agreement and plan shall be provided to the City when the project is complete.

(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 for a period of five (5) years and shall be made available to the City upon request.

(e) The City may perform corrective or maintenance work, at the owner's expense, upon any failure to maintain facilities or correct problems with private facilities after receiving reasonable notice from the City.

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

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

Sec. 968.21. Inspection:

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

(b) All stormwater systems and stormwater facilities within the service area shall be subject to the authority of the City to ensure compliance with this Article and may be inspected at any reasonable time.

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

(d) Whenever necessary to make an inspection to enforce any of the provisions of this Article, or whenever the City has reasonable cause to believe that there exists in any building or upon any premises any condition which may constitute a violation of the provisions of this Article, the City may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed by this Article; provided that

(1) If such building or premises is occupied, the City's representative first shall present proper credentials and request entry; and

(2) If such building or premises is unoccupied, the City's representative first shall make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry.

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

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

State law reference: W. Va. Code §§ 8-16-5, 1-13-2, 16-13-22.

Sec. 968.22. Sampling:

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

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

Sec. 968.23. Testing and Monitoring:

(a) Whenever the City 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 City may, by written notice, order that such person undertake such monitoring activities and/or analyses and furnish such reports as the City may require. The written notice shall be served either in person or by certified or registered mail, return receipt requested, and shall set forth the basis for such order and shall particularly describe the monitoring activities and/or analyses and reports required. The burden to be borne by the owner or operator, including costs of these activities, analyses and reports, shall bear a reasonable relationship to the need for the monitoring, analyses and reports and the benefits to be obtained.

The recipient of such order shall undertake and provide the monitoring, analyses and reports within the time frames set forth in the Order.

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

(c) The City shall promulgate a regulation detailing a process by which the person alleged to be engaging in an activity causing or contributing to pollution or illicit discharges shall receive notice and an opportunity to appeal/contest said allegations pursuant to § 968.27, the appeal provisions of this Article.

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

Sec. 968.24. Concealment:

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

constitute a violation of such provision.

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

Sec. 968.25. Administrative Enforcement Powers:

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

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

Sec. 968.26. Nonexclusively of Remedies:

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

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

Sec. 968.27. Appeal:

The City shall promulgate a rule to facilitate a tiered appeal by any user or prospective user aggrieved by a decision, act or inaction of the City's Stormwater Division. The City Public Works Director shall make a decision on the appeal within thirty (30) days of receiving a proper appeal.

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

Sec. 968.28. Disclaimer of Liability:

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

SPONSORED BY: _____

APPROVED AS TO FORM BY: _____

FIRST READING:

SECOND READING:

DATE: _____

BARBARA NELSON, CITY CLERK

DATE

MAYOR

APPROVE: _____

DATE

VETO: _____