

# Article 934 Stormwater Management Rules and Regulations

Changes Adopted 10-11-2016

- |   |  |
|---|--|
| 934.01 DEFINITIONS.*                          | 934.18 STORMWATER TAPS.  |
| 934.02 GENERAL.                               | 934.19 ENFORCEMENT.  |
| 934.03 STORMWATER SERVICE CHARGES.            | 934.20 STORMWATER MANAGEMENT AND COMPREHENSIVE DRAINAGE PLANS. * |
| 934.04 PROPERTY AFFECTED.                     | 934.21 STORMWATER DESIGN MANUAL.                                 |
| 934.05 FLAT RATE CHARGES.                     | 934.22 PLAN SUBMISSION AND REVIEW PROCESS.                       |
| 934.06 CHARGES BASED ON LAND AREA.            | 934.23 MAINTENANCE OF STORMWATER FACILITIES. *                   |
| 934.07 BILLING.                               | 934.24 INSPECTION.   |
| 934.08 COLLECTION.                            | 934.25 SAMPLING.   |
| 934.09 USE OF FUNDS.                          | 934.26 TESTING AND MONITORING.                                   |
| 934.10 GENERAL REQUIREMENTS AND PROHIBITIONS. | 934.27 CONCEALMENT.  |
| 934.11 ILLICIT CONNECTIONS.                   | 934.28 ACTS RESULTING IN VIOLATION OF FEDERAL CLEAN WATER ACT.   |
| 934.12 OUTDOOR STORAGE AREAS.                 | 934.29 VIOLATIONS DEEMED A PUBLIC NUISANCE.                      |
| 934.13 CONSTRUCTION SITES. *                  | 934.30 ADMINISTRATIVE ENFORCEMENT POWERS.                        |
| 934.14 DISCHARGE OF POLLUTANTS.               | 934.31 NON-EXCLUSIVITY OF REMEDIES.                              |
| 934.15 DISCHARGE IN VIOLATION OF PERMIT. *    | 934.32 APPEAL.   |
| 934.16 NOTIFICATION OF SPILLS.                | 934.33 DISCLAIMER OF LIABILITY.                                  |
| 934.17 CONSTRUCTION.                          | 934.98 SEVERABILITY  |

## 934.01 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) "Town watershed" are those areas within the corporate limits of the Town of Star City, and designated areas outside of those limits, over which the Town provides city water and sewage service.

- (c) "Director" is the Public Works Director of the Town of Star City.
- (d) "Facility" for purposes of Section 934.18 of this article is a building, structure, installation or construction site in which pollutants are produced and/or generated as a result of a process or processes, conducted within the building, structure or installation.
- (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 authorized by the Town of Star City from the date of enactment of this article.
- (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 buildings, pavement, gravel or other material that significantly inhibits stormwater from penetrating the soil.
- (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) "New development" is any construction activity upon undisturbed/undeveloped land.
- (l) "Non-stormwater" is all flows to the stormwater system not defined as stormwater in this Section 934.01 of this article or as determined by the Director. This includes, but is not limited to, cooling water, process water, ground water from a purge well and swimming pool discharge.
- (m) "Pervious area" is all land area that is not impervious.
- (n) "Pollutant" means objects including, but not limited to, dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, grease, petroleum products, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, dirt, industrial, municipal and agricultural waste,

gasses entrained in water, paints, oil and other automotive fluids, soil, rubbish, debris, materials containing fecal coliform, fecal streptococcus, and enterococcus, heavy metals, hazardous wastes, yard waste from commercial landscaping operations, animal waste, materials that result from the process of building, and offensive matter of any kind, which, when discharged to water, cause or contribute to water pollution.

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

(p) "Re-Development" is any reconstruction of or modification to an existing property that requires or would require a building permit under existing ordinance.

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

(r) "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.

(s) "Stormwater service charge" shall be determined by Council at such time and such a manner as they deem necessary.

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

(u) "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 Town of Star City.

(v) 303d/TMDL A TMDL (Total Maximum Daily Loads) establishes the maximum allowable pollutant loading for a waterbody to comply with water quality standards,

distributes the load among pollutant sources, and provides a basis for actions needed to restore water quality. West Virginia's water quality standards are codified at Title 47 of the Code of State Rules(CSR). Series 2, and titled Legislative Rules, Department of Environmental Protection: Requirements Governing Water Quality Standards. The standards include designated uses of West Virginia waters and numeric and narrative criteria to protect those uses. The WVDEP routinely assesses use supported by comparing observed water quality data with criteria and reports impaired waters every two years as required by Section 303(d) of the Clean Water Act.

#### 934.02 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 to:

- (1) Control non-stormwater discharges to storm drain systems.
- (2) Reduce pollutants in stormwater discharges.
- (3) Control stormwater runoff by providing design, construction and maintenance criteria for permanent and temporary stormwater facilities.
- (4) 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) Fully comply with federal and state statutory and regulatory requirements and schedules regarding stormwater management and the water quality of the receiving streams.

#### 934.03 STORMWATER SERVICE CHARGES.

The common Council of the Town of Star City, West Virginia makes the following findings:

(a) The State of West Virginia Department of Environmental Protection has required the Town of Star City to procure a National Pollution Discharge Elimination System Water Pollution Control Permit (NPDES) for Stormwater Discharges from Small Municipal Separate Storm Sewer systems (MS4). The Town of Star City currently operates Under WV/NPDES Permit WV0116025, Effective date August 11, 2014, Expiration Date: August 11, 2019.

Maintaining the MS4 permitting, procedures, inspections, record keeping, mapping, enforcement and the storm water sewer system is placing a burden on the finances of the

Town. The Town must have adequate and stable funding for the MS4 program and capital investments needs.

(b) The Common Council finds, concludes and determines that the imposition of Storm Water Fees provides the most practical and appropriate means of properly delivering and funding storm water management services in Star City.

#### **934.04 PROPERTY AFFECTED.**

All real property shall be subject to the stormwater fees regardless of whether privately or publicly owned. All property that receives city water and sewage service from the Town of Star City shall be assessed storm water fees.

#### **934.05 FLAT RATE CHARGES.**

The monthly service charge for users occupying a single-family residential dwelling, as defined by the director shall be \$5.88. Town council may, from time to time, by ordinance, change these rates.

#### **934.06 CHARGES BASED ON LAND AREA. – RESERVED**

The monthly service charge for Properties, other than described in Section 934.05 shall be calculated as follows; \$2.35(dollars) per 1,000 square feet of impervious area on the property.

Stormwater fees for multi-unit properties shall be billed to each individual tenant upon the property, as stated in 934.05, if said tenants each have an individual city water service meter. The property owner shall be billed, at the land area rate if tenants do not have individual drinking water service meters. Commercial properties that have some residential units and other commercial tenants shall have each residential unit billed as per 934.05. The square footage of said residential units shall be subtracted from the total impervious square footage of the property when calculating the total area. Commercial tenants that have individual water meters shall be billed for the square footage of the property proportionally based on square footage of said business within the structure. Empty units shall be billed to the owner.

Credits shall be applied to properties that have additional volumetric flow reductions achieved voluntarily above and beyond the levels otherwise required by this Article.

#### **934.07 BILLING**

The billing of the Stormwater fee shall be combined with the billing of other utility services provided by the Town of Star City.

#### 934.08 COLLECTION

Unpaid Stormwater fees shall constitute just cause for disconnection of public water service to the non-paying property. The Director shall ensure sufficient notice of disconnection is issued no later than thirty (30) days prior to scheduled disconnection and that the notice of disconnection is posted on the affected property no later than five (5) days prior to scheduled disconnection. Water service shall be re-activated only upon full payment of the owed fees.

The Director may take appropriate legal action to collect unpaid charges

#### 934.09 USE OF FUNDS

All funds collected for stormwater fees shall be accounted separately and shall be used solely for the permitting, construction, operation and maintenance of the stormwater system owned by the Town of Star City.

#### 934.10 GENERAL REQUIREMENTS AND PROHIBITIONS.

- (a) The use of the stormwater collection system shall be the collection and transportation of stormwater.
- (b) No person shall place or cause to be placed any pollutant into the stormwater system other than stormwater, unless written approval has been granted by the Director. The Director may refuse to grant approval to discharge non-stormwater into the stormwater system for any reason or combination of reasons.
- (c) The Town of Star City shall administer use of the stormwater system to all users within the Town watershed, whether located within or outside Town limits.
- (d) No person shall cause or permit the introduction of any pollutant into the stormwater system, whether solid, liquid or gaseous, that will cause:
  - (1) Chemical reaction, either directly or indirectly with the materials of construction used in the stormwater system or that will impair the strength or durability of sewers or structures;
  - (2) Mechanical action that will destroy or damage sewers or structures;
  - (3) Restriction of the normal maintenance and inspection of sewers;
  - (4) Danger to public health and safety or to the environment;
  - (5) Conditions that create a public nuisance;
  - (6) An oil sheen or unusual color;
  - (7) Abnormal demand on the stormwater system capacity; or,

(8) The stormwater system to violate its NPDES permit or applicable receiving water standards and all other Federal, State, and local regulations.

(e) Any person or entity engaged in activities which will or may result in pollutants entering the storm drain system shall undertake best management practices to reduce such pollutants. Examples of such activities include, but are not limited to, ownership and/or operation of facilities that may be a source of pollutants, such as paved parking lots, gasoline stations, industrial facilities, and private roads/streets.

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

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

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

#### 934.11 ILLICIT CONNECTIONS.

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

#### 934.12 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.

#### 934.13 CONSTRUCTION SITES.

- (a) Any person performing construction work in the watershed of the Town of Star City shall comply with the provisions of this Article and shall provide an Erosion and Sediment Control Plan as part of the Grading Permit that effectively prevents discharges of pollutants to a storm drain system.
- (b) The Grading Ordinance Part Nine, Chapter One Article 901 requires a permit for any grading and/or filling on an area more than 150 square feet. The permit requires, a plat of the area to be graded and/or filled with ownership information, an Erosion and Sediment Control Plan and evidence that the site is out of the 100-year Flood plain. Note: Any one in violation of the Grading Ordinance shall be fined up to \$100.00 or imprisoned not more than thirty days or both.

##### (1) Erosion and Sediment Control Plan

(A) Construction Sites over 1,000 square feet must make application for a Stormwater Permit which shall include an Erosion and Sediment Control Plan see section 934.20, Sites under 1,000 square feet shall provide the following:

- (i) Project name, Name of Owner/Applicant, address of owner or company, phone number, address and tax parcel information on site, Name of operator performing work, address and phone numbers
- (ii) A plat or boundary line survey of the entire site on which construction shall be done showing the area to be disturbed and any storm water inlets or ditches to which they may discharged into.
- (iii) Location and description of existing and proposed features of importance to the project.
- (iv) Proposed start and Completion dates.

(v) A narrative description of Storm water Controls to be used, soil stabilization, re-vegetation measures and Pollution Prevention Measures.

*(vi) Provide documentation of other required state permits WVDOT, NPDES etc.*

*(vii) 303d/TMDL information shall be submitted with the application showing the relationship of the construction project to 303d/TMDL waters.*

(B) The Plan must incorporate the design, installation and maintenance of effective erosion controls and sediment controls to minimize the discharge of pollutants at a minimum, such controls must be designed, installed and maintained to:

(i) Control storm water volume and velocity within the site to minimize soil erosion.

(ii) Control stormwater discharges, including both peak flow rates and total stormwater volume, to minimize erosion at outlets, on stream banks and within the downstream channel.

(iii) Minimize the amount of soil exposed during construction activity;

(iv) Minimize the disturbance of steep slopes;

(v) Minimize sediment discharges from the site taking in to consideration as the amount, frequency, intensity and duration of precipitation, the nature of the resulting stormwater runoff, and soil characteristics, including the range of soil particle sizes expected to be present on site.

(vi) Provide and maintain natural buffers around surface waters, direct stormwater to vegetated areas to increase sediment removal and maximize stormwater infiltration, unless infeasible: and

(vii) Minimize soil compaction and, unless infeasible preserve topsoil.

(viii) Soil Stabilization of disturbed areas must as a minimum be started immediately or within a maximum of 7 days whenever any clearing, excavating or other earth disturbing activities have permanently ceased on any portion of the site, or temporary ceased on any portion of the site and will not resume for a period exceeding 14 calendar days when that area must be seeded and mulched within 7 days.

(ix) Dewatering discharge activities, including discharges from dewatering of trenches and excavations are prohibited unless managed by appropriate controls.

(C) Pollution Prevention Measures shall be designed, installed and maintained to minimize the discharge of pollutants. At a minimum such measures shall include;

(i) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water and other wash water. Wash water must be treated in a sediment barrier or alternate control that provides equivalent or better treatment prior to discharge.

(ii) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary wastes and other materials on the site to precipitation and to stormwater runoff. Waste disposal shall be documented and kept in a designated protected area.

(iii) Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.

(D) Prohibited Discharges:

(i) Concrete washout unless managed by an appropriate control

(ii) Washout of stucco, paint, oils, curing compounds, & other construction materials Fuels, oils or other pollutants used in vehicles & equipment

(iii) Soaps or solvents used in vehicles and equipment washing.

(b) Application Review

(1) All applications for a grading permit must be submitted at least 30 days before the start of the project to give the Town time to review the application. Operators of the construction activity are prohibited from commencing construction activity until they receive receipt of written approval of the plans and the pre-construction inspection has taken place. If the plan is revised the revisions must have written

approval before construction can start. The review shall prioritize projects that drain to 303d/TMDL waters.

(A) The Town shall assess the application for compliance under the Town's Ordinances and permits related to stormwater runoff, including the implementation and maintenance of designated minimum control measures.

(B) Assess the appropriateness of planned control measures and their effectiveness

(C) Provide education and outreach on stormwater pollution prevention, as needed, to the developer and contractor on each project.

(D) Check for other permits required by this type of construction, NOI, WVDOT

(c) Construction Site inspections and Enforcement

(1) The Town shall provide written or electronic inspection reports generated from findings in the field. Copies on said reports shall be kept in a file at Town Hall. Based on site inspection findings the Town shall take all necessary follow up actions to ensure compliance in accordance with this Ordinance.

(A) Prior to the issue of the grading or Stormwater permit the site must be inspected to ensure all the necessary erosion and sediment controls outlined in the plan are in place and functional. After the site has been inspected and approved the permit will be issued in writing a copy of which must be maintained on site at all times.

(B) Inspections during construction shall be done with 48 hours of a significant rainfall and no less than bi-weekly for sites 1 acre or more. Sites under an acre shall be inspected as needed.

(C) Following active construction the site shall be inspected to ensure that all graded areas have reached final stabilization and that all temporary control measures have been removed.

#### (d) Enforcement

The Building Inspector, the Director of Public Works, the Mayor and/or the Town's Engineer can issue site violations for non-compliance with this ordinance and shut the site down until the needed repairs are made. Upon re-inspection and approval of remediation the Town will issue a written approval for construction to resume. A minor violation is one that is resolved in under 24-hours and does not occur again. Any violation that is not resolved within 24 hours or continues to violate the Ordinance will result in a total shut down of work on the site and work will not resume till the problem is fixed and the Town removes the shutdown order.

#### 934.14 DISCHARGE OF POLLUTANTS.

Discharges from the following activities will not be considered a source of pollutants to waters of the State when properly managed: water line flushing and other discharges from potable water sources, landscape irrigation and lawn watering, irrigation water, diverted stream flows, rising ground waters, groundwater infiltration to separate storm drains, uncontaminated pumped ground water, foundation and footing drains, roof drains, water from crawl space pumps, residential air conditioning condensation, springs, individual residential and non-profit group car washes, flows from riparian habitats and wetlands, de-chlorinated (0.1ppm or less) swimming pool discharges or flows from firefighting activities and training.

#### 934.15 DISCHARGE IN VIOLATION OF PERMIT.

Any discharge that would cause a violation of a Municipal NPDES Permit and any amendments, revisions or reissuance thereof, either separately considered or when combined with other discharges, is prohibited. The Owner or other responsible party of the property from which the pollutant is found will be notified immediately, by phone by the Director or other officer of the Town. A spill report will be filled by the town at the time and a copy sent to the owner of said property with instructions to stop said discharge within 72 hour, of the original notice by phone. If said discharge is not stopped within 120 hours of the original notice the Town shall take whatever measures are needed to halt the illicit discharge. The responsible party must notify The Town when the discharge has been eliminated and Star City will conduct a follow up investigation and field screening to verify that the discharge has been eliminated, a report of which must be filled at Town Hall with the original spill report. The Director

may direct the responsible party to sample and monitor the discharge for a set time period, if deemed necessary to ensure compliance.

Liability for any such discharge, including, but not limited to, the cost of remedial activity, field investigations, sampling, damage to other properties, escalating enforcement and legal actions shall be the responsibility of the person(s) causing or responsible for the discharge. The Town shall seek to have such persons defend, indemnify and hold harmless the Town in any administrative or judicial enforcement action against the Town of Star City relating to such discharge as provided by applicable rules of law. Failure to pay related costs would result in legal actions being taken to disconnect water, sanitary and storm water services to any property in violation of this ordinance.

#### 934.16 NOTIFICATION OF SPILLS.

All persons in charge of a facility or responsible for emergency response for a facility are responsible to train facility personnel, maintain records of such training and maintain notification procedures to assure that immediate notification is provided to the Director upon becoming aware of any suspected, confirmed or unconfirmed release of material, pollutants or waste creating a risk of discharge into the municipal stormwater system or into a receiving stream.

#### 934.17 CONSTRUCTION (on Public Facilities of the Stormwater System)

(a) Only designated Star City 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 at all times, and construction shall only occur during normal working hours of the Town of Star City. No facility constructed by an authorized party may be covered or connected to a public facility without specific authorization of the Director. This authority shall be granted by the Director upon satisfaction of the announced design and construction standards.

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

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

(1) Compliance with all relevant Federal and State labor, employment and environmental laws; and,

(2) Compliance with all relevant and applicable state laws regarding government construction contracts, including, but not limited to, WV Code §§ 5-22-1, et seq. And 21-5A-1, et seq.; and,

(3) Full and active policy coverage as certified by the West Virginia Bureau of Employment Programs, Workers' Compensation Division; and,

(4) Contractor's liability insurance issued by an insurance company with a Best's rating of no less than "A" and certified to the satisfaction of the Director, which may include commercial general, automobile, umbrella and builders risk policies, naming the Town of Star City as an additional insured. Policies and coverage limits and terms required shall be appropriate to the subject construction and shall be designated by the Director; and,

(5) A construction bond issued by an insurance company with a Best's rating of no less than "A" and certified to the satisfaction of the Director, equal to the estimated cost of the construction and for a term equal to the duration of the construction project. At the discretion of the Director, a bonded party may provide a cumulative general construction bond in satisfaction of this requirement; and,

(6) A repair bond issued by an insurance company with a Best's rating of no less than "A" and certified to the satisfaction of the Director, in an amount no more than the reasonable estimate of repair costs, as determined by the Director, and for a term of no longer than five years, beginning on the date of substantial project completion. At the discretion of the Director, a bonded party may provide a cumulative general construction bond in satisfaction of this requirement; and,

(7) Certification of full compliance with all relevant state and local permits and tax rules and regulations, certification of appropriate property rights to perform the construction, and conveyance to the Town of Star City of appropriate property rights for the completed public facilities.

(8) Nothing in subsections (e)(2),(3),(4), (5) and (6) hereof shall apply to any situation where the Director shall come to an agreement with volunteers 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 Town of Star City. The not-for-profit entity shall be responsible for all costs to the utility associated with such a project.

#### 934.18 STORMWATER TAPS.

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

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

#### 934.19 ENFORCEMENT.

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

(b) The Director and other authorized employees of the Town 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 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 of the conditions described therein.

(f) If, after reasonable notice, a person fails to comply with this article, the Director may cause the work to be done to obtain compliance and shall charge the cost of that work to the person responsible. The responsible person shall pay in full the charged amount within thirty (30) days of the invoice date, or otherwise make arrangements, acceptable to the Director, for full payment of the invoiced amount.

(g) In addition to any other remedy, the Director, after thirty (30) calendar days written notice and five (5) calendar days notice posted on the affected property, is authorized to disconnect water service, sanitary sewer and stormwater sewer services to any property in violation of this article. The notice shall state that persons affected may within five (5) calendar days provide the Director with any information or reasons as to why services should not be disconnected.

(h) The Director is authorized to take all steps necessary to immediately halt any discharge of pollutants which reasonably appear to present an imminent danger to the health or welfare of persons or to the environment.

(i) Persons aggrieved by any determination of the Director in enforcing this Article may appeal that determination to the Star City Town Council or a court of proper jurisdiction. Prosecution shall be stayed pending such an appeal.

#### 934.20 STORMWATER MANAGEMENT AND COMPREHENSIVE DRAINAGE PLANS.

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

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

(c) The following activities shall be exempt from the requirements of this section, except that no activity over 150 square feet shall be exempt from the requirement to provide an Erosion and Sediment Control Plan and to control management of the discharge of sediment or any other form of water pollution that may leave any parcel or site.

(1) Agricultural land management activities;

(2) Additions or modifications to existing detached single-family dwellings of a size less than 1,000 square feet shall **not be required to detain storm water and discharge it at a reduced rate unless the municipal system is inadequate to handle such flow; and**

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

(d) All new development and redevelopment subject to the provisions of this article shall be required to obtain a stormwater permit unless exempted under the provisions of Section 934.20(c). 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 Town 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) Uniform requirements shall be applied to each regulated project site. These requirements shall be based upon the criterion that post development stormwater peak runoff rates of flow must not exceed the pre-development peak runoff rates of flow, a peak runoff rate of flow reduction of ten percent (10%) from the pre-existing peak runoff rate of flow must be achieved.

(g) For construction that results in impervious area of 3,000 square feet or more, a stormwater management and comprehensive drainage plan will be required in order to qualify for a stormwater permit. The plan shall include the following information:

(1) Descriptive information:

A. Title block with:

- (i) Development name.
- (ii) Owner.
- (iii) Design firm.
- (iv) Legend.
- (v) North arrow.
- (vi) Vicinity map.
- (vii) Scale.
- (viii) Sheet numbers.
- (ix) Date.

B. Topographical features:

- (i) Original contours at intervals no greater than two vertical feet.
- (ii) Existing drainage components, i.e., streams, ponds, pipes, etc.
- (iii) Property boundary lines.
- (iv) Existing streets, buildings, and utilities.
- (v) 100 year flood plain.
- (vi) Off-site drainage entering site.
- (vii) Original drawing no larger than 24-inch x 36-inch and at a scale from 1 inch equals 10 feet to 1 inch equals 50 feet.

C. Site plans:

Provide an Existing Condition and a Proposed Condition Site Plans

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

(viii) Detail and note the following for pre-existing and proposed areas of the project: Total impervious area & Total Green space. Note the percent change in both on the Proposed Site Plan and Storm Water Permit form.

(ix) Control release facilities showing cross-sections and profiles.

(iix) Provide methods for protecting existing trees and shrubs, if there are no trees or woody shrubs present on the site provide a minimum of one tree or 3 woody shrubs per 700 square feet or less of green space.

(iiix) Provide methods to be used to protect native soils and prevent compaction of soils.

D. Final as-built drawings:

(i) Show location, length, sizes, and pertinent elevations of the stormwater management system.

(ii) All impervious areas shall be accurately depicted.

(iii) Failure to provide final as-built drawings within three months of substantial project completion will cause the utility to prepare these drawings. The responsible party shall be charged for this service. The Director may extend this time as deemed necessary.

(2) Design standards.

A. Flow rates shall be calculated by use of the Rational Method unless sufficient justification for use of another method is approved by the Director.

B. The minimum "time of concentration" to be used in the calculations shall be six (6) minutes.

C. The ABT & Grigg Method shall be used to determine the volume necessary for detention. Detention structures shall be designed in such a manner that the post-construction peak runoff rate of flow shall be equal to or less than the pre-construction peak runoff rate of flow for 2-year/24-hour, 10-year/24-hour and 25-year/24-hour storms. In all projects, a peak runoff rate of flow reduction of 10% from the pre-existing peak runoff rate of flow must be achieved.

D. All sites must maintain at least 10% of the entire project in green space, further minimizing impervious surface is encouraged.

F. Projects impacting ecologically sensitive areas may be denied a permit to construct in those areas. Plans must demonstrate how these areas are to be protected.

G. Projects shall reduce or avoid hydromodification of drainage and stream channels. Projects applying to channelize or pipe drainage and /or streams will be required to provide off site mitigation or payment in lieu will be applied at a 1:2 ratio for that portion.

H. Provide methods for protecting existing trees and shrubs, if no trees or woody shrubs are present on the site, provide one tree or 3 woody shrubs per 700 square feet of green space. If it can be demonstrated that keeping existing trees &/or shrubs is not practical to the site design, provide one tree or 3 woody shrubs per 700 square feet of green space. If the green space of said project is under 300 square feet provide one tree or 3 woody shrubs.

If providing the minimum is not practical the permittee will be required to provide off site mitigation or payment in lieu will be applied at a 1:3 ratio for that portion.

I. Provide methods to be used to protect native soils and prevent compaction of soils.

(3) Design backup.

A. Calculations of volumetric runoff and peak runoff rate of flow for both pre-development and post-development.

B. Calculations for stormwater detention/retention facility and other system elements.

C. Operation and Maintenance Manual for private stormwater control facilities

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

(h) Starting July 2015 For any new development or redevelopment disturbing an area of an acre or greater a Stormwater Management and Comprehensive Drainage Plan must

be developed that will keep and manage on site the first one inch of rainfall from a 24-hour storm preceded by 48 hours of no measureable precipitation. Runoff volume reduction can be achieved by canopy interception, soil amendments, evaporation, rainfall harvesting, engineered infiltration, extended filtration and/or evapotranspiration and any combination of the aforementioned practices. This first one inch of rainfall must be 100% managed with no discharge to surface waters, except when the permittee chooses to implement the conditions in paragraph 4 below. This can be achieved through on site utilization of practices to include dry swales, bio-retention, rain tanks and cisterns, soil amendments, roof top disconnections, permeable pavement, porous concrete, permeable pavers, reforestation, grass channels, green roofs and other practices that alone or combined will capture the first one inch of rainfall runoff volume. Extended filtration practices that are designed to capture and retain up to one inch of rainfall may discharge volume in excess of the first inch through an under drain system. An Underground Injection Control permit may be required when certain conditions are met.

1) The following additional water quality requirements, as applicable:

a) A project that is a potential hot spot with reasonable potential for pollutant loading(s) must provide water quality treatment for associated pollutants before infiltration. (such as petroleum hydrocarbons at a vehicles fueling station)

b) A project that is a potential hot spot with reasonable potential for pollutant loading(s) that cannot implement adequate preventative or water quality treatment measures to ensure compliance to ensure compliance with groundwater and/or surface water quality standards, must properly convey stormwater to a NPDES-permitted waste water treatment facility or via a licensed waste hauler to a permitted treatment and disposal facility.

2) Incentive Standards; A reduction of 0.2 inches from the one inch runoff reduction standard may be applied to any of the following types of development. Reductions are additive up to a maximum reduction of 0.6 inches for a development that meets four or more of the criteria.

- a) Redevelopment
- b) Brownfield Redevelopment
- c) High Density (>7 units per acre)

- d) Vertical Density, (floor to area ratio (FAR) of 2 or >18 units per acre)
- e) Mixed Use and Transit Oriented Development  
(within ½ mile of transit)

(NOTE: For projects that cannot meet the runoff reduction requirement of the 0.4" after incentives have been applied, two alternatives are available: Off site mitigation or payment in lieu will be applied at a 1:2 ratio for that portion.)

3) The Stormwater Permit Application shall include:

A. Title Block With:

- (i) Development name.
- (ii) Owner.
- (iii) Design firm.
- (iv) Authorized registered professional engineer stamp, signature and date.
- (v) Legend.
- (vi) North arrow.
- (vii) Vicinity map.
- (viii) Scale.
- (ix) Sheet numbers.
- (x) Date.
- (xi) Revision numbers and dates.

B. Topographical features:

- (i) Original and proposed contours at intervals no greater than 2 vertical feet.
- (ii) Existing drainage components, i.e., streams, ponds, pipes, etc.
- (iii) Property boundary lines.
- (iv) Existing streets, buildings, and utilities.
- (v) 100 year flood plain.
- (vi) Off-site drainage entering site.
- (vii) Original drawing no larger than 24-inch x 36-inch and at a scale from 1 inch equals 10 feet to 1 inch equals 50 feet.

C. Site plan:

- (i) Existing and proposed structures, roads, buildings, paved areas.

- (ii) Existing and proposed stormwater management system and components including sizes, lengths, pertinent elevations, etc.
- (iii) Where and how proposed stormwater management system will be connected to existing systems.
- (iv) Location, design and grade of all BMPs including cross sections profiles with elevations of critical components.
- (v) Sedimentation and erosion control measures are required. Refer to the most current edition of The West Virginia Department of Environmental Protection Sedimentation and Erosion Control Manual for acceptable means and methods.
- (vi) Existing and proposed ground cover.
- (vii) Control release facilities showing cross-sections and profiles.

#### D. Narrative and Calculations

- (i) Narrative of storm water management system
- (ii) Table of BMPs with target treatment volumes for drainage areas (one inch capture), volume provided, sizing and summary of performance of proposed storm water measures.
- (iii) Watershed delineation for pre & post-development conditions using the Rational method, with travel times *of* 6 minutes (time of concentration), Cn numbers used use coefficients noted in Star City Design Manual for each drainage area pre & post, land use pre & post, peak discharge rates pre & post and soil types, if applicable, for each drainage area.
- (iv) Results of soil test pits and/or borings, infiltration tests and groundwater and bedrock elevations, if applicable.
- (v) Detailed Hydraulic calculations for outlet orifices, weirs, spillways, culverts, channel sizing, etc.
- (vi) Show the relationship of the construction project to 303d/TMDL waters. Note the Monongahela River is impaired for fecal coliform and Popenoe Run is impaired for fecal coliform and chlorides.
- (vii) Provide methods for protecting existing trees & shrubs, note the addition of trees & shrubs in landscaping plan.
- (viii) Provide methods to be used to protect native soils and prevent compaction of soils.

## E. Supporting Documents

- (i) Maintenance Agreement, signed by all parties and recorded
- (ii) Maintenance plan for each type of BMP
- (iii) Documentation of other required Permits: WVDEP, WV DOT, Army Corps of Engineers, WVDHHR etc.
- (iv) Documentation of “right to enter” for all storm water discharges that are not tapped directly into the Town storm system or blue lined stream.

## F. Final as-built drawings:

- (i) Submitted in AutoCAD DXF or DWG file format.
- (ii) Show all revised contours and appropriate “spot elevations”.
- (iii) Show location, length, sizes, and pertinent elevations of the stormwater management system.
- (iv) All impervious areas shall be accurately depicted.
- (v) Failure to provide final as-built drawings within three months of substantial project completion will cause the utility to prepare these drawings. The responsible party shall be charged for this service. The Director may extend this time as deemed necessary.

### 4) Applicable design standards:

Star City Design Guidance Manual – current edition (new)  
WV Stormwater Design Guidance Manual – current edition

### 5) Required sedimentation and erosion control measures:

WV DEP Sedimentation and Erosion Control Manual – current edition

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

(j) No construction shall be performed in a manner that will negatively impact the water environment in the vicinity of construction or in other areas, regardless of whether this

impact is manifested by flow restrictions, increased runoff, diminishing channel or floodplain storage capacity, harm to aquatic life or any other manifestation of negative impact.

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

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

(m) The owner of a completed new development and/or redevelopment construction shall submit to the Director within ninety (90) days of substantial project completion an "as-built" plan of the stormwater management facilities located upon the property/site.

(n) Waivers for Providing Stormwater Management.

(1) Unless waived by the Director, every applicant shall provide for stormwater management as required by this section. Request for waiver must be submitted in a form prescribed by the Director.

(2) The Director may not waive the minimum requirements for stormwater management of water quality protection.

(3) Any requirements beyond those described in Section 934.20(i) 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. A determination that requirements of this regulation cannot be met on site may not be based on the difficulty or cost of implementing measures, but must include multiple criteria that would rule out an adequate combination of the practices set forth to meet these regulations. In instances where alternatives to complete on site management of the first inch of rainfall are chosen, technical justification as to the infeasibility of on site management must be documented. To be eligible for a waiver, the applicant

must also demonstrate to the satisfaction of the Director that the waiver will not result in any of the following impacts to downstream waterways:

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

(4) Where compliance with the full requirements for on-site stormwater management is waived, the applicant shall satisfy stormwater management requirements by accomplishing a mitigation measure approved by the Director. Mitigation measures may include, but are not limited to, the following:

- (A) Alternative means for on-site management of stormwater discharges that have been established in a stormwater management plan that has been approved by the Director.
- (B) The creation of appropriately designed and constructed stormwater management facility or drainage improvements on other properties, public or private, that currently lack stormwater management facilities.

- (i) These alternatives are available in combination or alone for up to 0.6 inches of the original 1-inch at a ratio of 1 to 1.5, than that which would be afforded by the waived on-site practices. If it is proven infeasible to manage on site a portion of all the remaining 0.4-inches, off site mitigation or payment in lieu will be applied at a 1:2 ratio for that portion. 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 extend practical, ensure that the benefits arising from the off-site practice shall be realized in the same basin/watershed as the waived management practice.

- (C) The purchase and donation of privately owned lands to the City or the grant of an easement to the City, to be dedicated to preservation,

reforestation, and/or the creation of green space, wetlands, or permanent buffer areas to protect water quality and aquatic habitat.

(o) 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 1.5 times for the first 0.6-inches and 2 times the cost for remaining 0.4-inches of stormwater management and based on the cubic feet of storage required for 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.

#### 934.21 STORMWATER DESIGN MANUAL.

(a) The Town of Star City may furnish additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements of this article. The most current edition of the West Virginia Stormwater Design Guidance Manual (Full Nov. 2012-v2) shall be used.

(b) This manual will include a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. The manual may be updated and expanded from time to time, at the discretion of the Stormwater Utility, based on improvements to engineering, science, monitoring and local maintenance experience. Stormwater treatment practices that are designed and constructed in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards.

#### 934.22 PLAN SUBMISSION AND REVIEW PROCESS.

The plan submission and review process shall be coordinated with and integrated into the Town's 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.

(a) The owner/applicant/design engineer for any project that disturbs an acre or greater (including projects of less than one acre that are part of a common plan of development or sale that will disturb, in total one acre or more) must develop and

submit a Pre-Application Stormwater Concept Plan. This should be done early in site planning process before infrastructure & lot configurations are locked down.

The Concept Plan should include:

1. Graphic elements showing the general type, location and size of proposed stormwater BMPs that will be used to meet the requirements to manage the first one-inch of rainfall.

2. Narrative & Computations Elements that describe:

- a) Site design incentives

- b) Conceptual or preliminary computations that show the Target Treatment Volume and the Stormwater BMP types and sizing necessary to control it.

- c) A project specific version of the Design Compliance Spreadsheet shall be included in the submittal.

3. Pre-Application Meeting shall be held for a preliminary review of the concept Plan to discuss site compliance issues, allow for constructive interaction and head off any issues that would cause delays in the approval process.

4. Review and approval of the Concept plan: Coordinate with other departments & Agency reviews. This review is to ensure there is enough information to ensure complete and compliant Final Storm Water Management Plan. Engineering details and final computations are not expected at this stage. This review will also allow the Town to review the project for compliance with Zoning, Building and other codes, access to utilities, check potential traffic issues and coordination with other agencies.

5. Revise Concept Plan in Response to Comments

6. Develop the Final Stormwater Management Plan

7. Review & Approval of Final Stormwater Management Plan Coordinate with other Departments & Agency reviews

8. Revise Final plan in response to comments. Issue permit when all comments have been addressed and approved.

9. Inspection and Verification of post-Construction Stormwater BMPs

Post –construction BMPs shall be inspected at critical stages during construction and a final inspection shall be done to verify that the BMP is installed in accordance with the approved plan and/or any approved field changes.

10. Submit As-Builts. As-Built survey should confirm Placement of BMP within easements, proper sizing, dimensions and materials. Elevations of inlets, outlets, risers, embankments, etc. Vegetation cover must be established and conform with the planting plan. The as-built must show the location of the permanent access easements for maintenance.

934.23 MAINTENANCE OF STORMWATER FACILITIES.

(a) Private stormwater facilities located in private property and within the Town watershed shall be required to execute a Maintenance Agreement, as part of the Storm Water Permit, that states the owner of said property is responsible for the maintenance, future repairs & upgrades of said storm water system. The Maintenance agreement shall become binding on the deed of said property.

The Owner shall be required to have the document signed by themselves and the Mayor of Star City and recorded in the courthouse before completion of the project.

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

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

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

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

#### 934.24 INSPECTION.

(a) Stormwater systems within the Town watershed shall be inspected by the Director during and after construction to assure consistency with the approved stormwater management plan. Annual inspections, to ensure system maintenance of all systems logged in the Town's database, will be conducted.

(b) All stormwater systems within the Town 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 or 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 Director has reasonable cause to believe that there exists in any building or upon any premises any condition which may constitute a violation of the provisions of this article, 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 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 Director 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.

#### 934.25 SAMPLING.

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

#### 934.26 TESTING AND MONITORING.

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

(b) Within two (2) days of the date of receipt of the order notice, the recipient shall respond personally or in writing advising the Director of the recipient's 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 Five (5) days of such meeting, the Director shall issue a final written order. Final Orders issued pursuant to this Section may be appealed to the Star City Town Council by the filing of a written appeal with the Mayor 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 Star City Town Council shall hear the appeal at its earliest practical date and may either affirm, revoke or modify the Order. The decision of the Star City Town Council 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 and attorney's fees, to the owner or operator. The Director may pursue judicial action to enforce the Order and recover all costs incurred.

#### 934.27 CONCEALMENT.

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

#### 934.28 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 sanctions of that Act including civil and criminal penalties.

#### 934.29 VIOLATIONS DEEMED A PUBLIC NUISANCE.

(a) In addition to the penalties hereinbefore provided, any condition caused or permitted to exist in violation of any of the provisions of this article shall be considered a threat to the public health, safety, welfare and the environment, may be declared and deemed a nuisance by the Director and may be summarily abated and/or restored by the Director and/or civil action taken to abate, enjoin or otherwise compel the cessation of such nuisance.

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

(c) If any violation of this 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.

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

### 934.30 ADMINISTRATIVE ENFORCEMENT POWERS.

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

(1) Cease and Desist orders. When the Director finds that a discharge has taken place or is likely to take place in violation of this article, the Director may issue an order to cease and desist such discharge, or practice, or operation likely to cause such discharge and direct that those persons not complying shall:

(A) Comply with the requirement;

(B) Comply with a time schedule for compliance; and/or

(C) Take appropriate remedial or preventive action to prevent the violation from recurring.

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

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

### 934.31 NONEXCLUSIVITY OF REMEDIES.

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

#### 934.32 APPEAL.

Any person, firm, corporation or organization notified of non-compliance with this article or required to perform monitoring, analyses, reporting and/or corrective activities who is aggrieved by the decision of the Director may appeal such decision in writing to the Star City Town Council within ten (10) days following the effective date of the decision. Upon receipt of such request, the Star City Town Council 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 Star City Town Council 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.

#### 934.33 DISCLAIMER OF LIABILITY.

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

#### 934.98 SEVERABILITY

Should any part of this article be declared invalid by a court of competent jurisdiction, the remaining portions hereof shall not be affected and shall remain in full force and effect.