

**REMINDER**

**5:30 BUDGET  
WORKSESSION**

**7:00 REGULAR  
MEETING**



**City of Radford Council Agenda**  
**Meeting Number 16 of F.Y. 2015-2016**

**April 11, 2016 at 7:00 p.m.**  
**10 Robertson St., Radford, VA**

**5:30 Work Session Budget**  
**7:00 Regular Meeting**

**CALL TO ORDER**  
**PLEDGE OF ALLEGIANCE**  
**INVOCATION**

**MINUTES APPROVAL:** March 28, 2016 – regular meeting

**RESOLUTION:** Honoring President Penelope W. Kyle

**REPORT:** Public Library – Toni Cox

**PROCLAMATION:** National Library Week

**PUBLIC HEARING:** Amendment to Chapter 32: Stormwater Management, adoption of new Article II: Illicit Discharge

**OLD BUSINESS:** None

**CITIZEN COMMENTS ON PUBLIC MATTERS:**

(Please state your name for the record – Please limit comments to 3 minutes or less)

**NEW BUSINESS:**

1. Consider first reading of Ordinance #1681: Amendment to Chapter 32: Stormwater Management, adoption of new Article II: Illicit Discharge

**CITY MANAGERS COMMENTS**

**CITY ATTORNEY COMMENTS**

**COUNCIL MEMBER COMMENTS**

**Closed meeting under the Virginia Freedom of Information Act in order to:**

Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments, under Virginia Code Section 2.2-3711 (A) (1).

***Future Meetings:***

***April 11, 2016 – Work Session, 5:30 pm***

***April 11, 2016 - Regular meeting, 7:00 pm***

***April 25, 2016 – Regular meeting, 7:00 pm***

10 Robertson St.

*The "New River" City*

March 28, 2016

Radford, Virginia

Regular Meeting Number 14 of Radford City Council, F.Y. 2015-2016

The regular meeting of the Radford City Council was convened at 7:00 p.m. in Council Chambers, 10 Robertson Street, Radford, VA. The Mayor of the City, Dr. Bruce Brown, was present and presiding. Other members of City Council present were Mr. Daniel Keith Marshall, Mr. Robert Nicholson and Mr. David Michael Turk.

Others present were as follows:

Mr. David Ridpath, City Manager

Mrs. Gail Cook DeVilbiss, City Attorney

Mrs. Jenni Wilder, Public Information Officer

Mr. Basil Edwards, Economic Developer

Following the Pledge of Allegiance, led by Mayor Brown, and the invocation was led by Reverend McCandlish.

**MINUTE APPROVALS:** On a motion by Mr. Nicholson seconded by Mr. Turk, that the minutes for March 14, 2016 are approved with corrections.

Add Dr. Harshberger to Council members present, and make sure the date of the meeting is correct.

**VOTE:**

AYES: Mr. Marshall, Mr. Nicholson, Mr. Turk, Mayor Brown

NAYES: None-0

**PROCLAMATIONS**

Mayor Brown asked to have all Proclamations be done by consent.

**SUBJECT: Environmental Awareness Month**

**SUMMARY:** April is "National Environmental Awareness Month". The Proclamation recognizes the importance of the earth's environment through educational programs, special events, demonstration projects, and clean-up activities. Our staff "Environmental Awareness Committee" has many activities planned for April for citizens to take part. The proclamation calls on our local citizens to recognize the environment during the month of April.



*PROCLAMATION  
APRIL 2016*

*Environmental Awareness Month*

*WHEREAS, various organizations and citizens show concern for the Earth's environment; and*

*WHEREAS, the problems of the Earth's environment affect all the citizens of Radford, as well as the entire population of the planet; and*

*WHEREAS, the City of Radford encourages Radford citizens to participate in global appreciation of the Earth through educational programs, special projects, demonstrations, cultural events, lectures, clean-up activities, etc.*

*NOW THEREFORE, the City Council of the City of Radford does hereby designate the month of April, 2016 as*

**ENVIRONMENTAL AWARENESS MONTH**

*and calls all citizens of Radford to support, recognize, and appreciate the importance of participating in this special month.*

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Dr. Bruce E. Brown, Mayor  
City of Radford

**SUBJECT: Earth Day**

**SUMMARY:** April 22, 2016 is nationally recognized as "Earth Day". The local Proclamation encourages citizens to "recycle, reduce, and reuse" to promote a healthy environment and a sustainable society. Earth Day will be formally recognized during our environmental awareness activities.



**PROCLAMATION  
APRIL 22, 2016  
Earth Day**

*WHEREAS, April 22, 2016 is recognized as National Earth Day; and*

*WHEREAS, a sound natural environment is the foundation of a healthy society and a robust economy, and*

*WHEREAS, there are sound economic, environmental, and social reasons for local governments to initiate energy efficiency and renewable energy practices, and*

*WHEREAS, the City of Radford encourages and endorses participation in events supporting Earth Day,*

*NOW THEREFORE, the City Council of the City of Radford does hereby proclaim the day of April 22, 2016 as*

**Earth Day**

*and does hereby encourage all of our citizens to participate in the ongoing efforts to recycle, reduce and reuse, as well as other activities which promote a healthy environment and sustainable society.*

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Dr. Bruce E. Brown, Mayor  
City of Radford

**SUBJECT: Arbor Day**

**SUMMARY:** April 29, 2016 is nationally recognized as “Arbor Day”. The local Proclamation encourages our citizens to protect our trees and woodlands, as well as recognize the benefits of our forests. Several Arbor Day events are planned by our Public Library, Beautification Commission, and City Horticulturist to heighten awareness of trees and planting in our environment.



PROCLAMATION  
APRIL 29, 2016  
*Arbor Day*

*Whereas, in 1872, a special day was set aside for the planting of trees, and*

*Whereas, this holiday, called Arbor Day, was first observed with the planting of more than a million trees, and*

*Whereas, 2016 is the 144<sup>th</sup> anniversary of the holiday and Arbor Day is now observed throughout the nation and the world, and*

*Whereas, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen, and provide habitat for wildlife and*

*Whereas, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires, and beautify our community, and*

*Whereas, trees, wherever they are planted, are a source of joy and spiritual renewal and*

*Whereas, the City of Radford established the Commission for Beautification and Municipal Forests to enhance and maintain the health and vitality of the community's urban landscape,*

*Whereas, the City of Radford's commitment to the preservation and propagation of trees within the community has been demonstrated over many years and recognized by the National Arbor Day Foundation through the designation of Radford as a Tree City USA community,*

*NOW THEREFORE, the City Council of the City of Radford does hereby proclaim April the 29<sup>th</sup>, 2016 as the 144<sup>th</sup> anniversary celebration of Arbor Day in the City of Radford, Virginia and joins with the Radford Commission for Beautification and Municipal Forests to urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands, and*

*Further, urges all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.*

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Dr. Bruce E. Brown, Mayor  
City of Radford

**SUBJECT: Local Government Education Week**

**SUMMARY:** April 3-9, 2016 has been designated by the Virginia General Assembly as “Local Government Education Week” in honor the formation of the Council-Manager form of government on April 2, 1908. The Virginia Local Government Manager’s Association (VLGMA) has asked that all Virginia Localities pass a similar Proclamation to increase

awareness of students and youth in local government, as well as the career opportunities available.



**PROCLAMATION  
APRIL 3-9, 2016  
LOCAL GOVERNMENT EDUCATION WEEK**

**WHEREAS**, since the colonial period, the Commonwealth of Virginia has closely upheld the institutions of local government; and

**WHEREAS**, local governments throughout the Commonwealth provide valuable services to the citizens of the communities they serve; and

**WHEREAS**, citizen services such as, law enforcement, public health and safety, recreational and leisure opportunities, and educating local children, are most often delivered at the local level; and

**WHEREAS**, in recognition of the work performed by local governments, the Virginia General Assembly, designated the first week in April as Local Government Education Week in Virginia; and

**WHEREAS**, April 2, 1908 was the creation of the Council-Manager form of government in the City of Staunton thereby making the first week in April appropriate for this designation.

**NOW, THEREFORE, BE IT PROCLAIMED**, by the City of Radford that April 3-9, 2016 is hereby designated as Local Government Education Week; and

**BE IT FURTHER PROCLAIMED** that the Radford City Council in conjunction with the Radford School Board will partner to promote civic education and engagement in an effort to educate citizens about their local government, strengthen the sense of community, and engage the next generation of local government managers.

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Bruce E. Brown, Mayor  
City of Radford

**SUBJECT: National Service Recognition**

**SUMMARY:** RSVP of Montgomery County and Radford has requested that City Council join in proclaiming April 5, 2016 as “National Service Recognition Day”. The Proclamation illustrates the importance of citizen service, shows support for non-profit and national service groups, recognizes the role that national service members play in focusing community volunteers and inspiring more individuals to serve in our communities.

**CITY OF RADFORD  
PROCLAMATION  
DAY for NATIONAL SERVICE**

**WHEREAS**, service to others is a hallmark of the American character, and central to how we meet our challenges; and

**WHEREAS**, the nation’s cities are increasingly turning to national service and volunteerism as a cost-effective strategy to meet their needs; and

**WHEREAS**, AmeriCorps and Senior Corps participants address the most pressing challenges facing our communities, from educating students for the jobs of the 21st century and supporting veterans and military families to providing health services and helping communities recover from natural disasters; and

**WHEREAS**, national service expands economic opportunity by creating more sustainable, resilient communities and providing education, career skills, and leadership abilities for those who serve; and

**WHEREAS**, AmeriCorps and Senior Corps participants serve in more than 50,000 locations across the country, bolstering the civic, neighborhood, and faith-based organizations that are so vital to our economic and social well-being; and

**WHEREAS**, national service participants increase the impact of the organizations they serve, both through their direct service and by managing millions of additional volunteers; and

**WHEREAS**, national service represents a unique public-private partnership that invests in community solutions and leverages non-federal resources to strengthen community impact and increase the return on taxpayer dollars; and

**WHEREAS**, national service participants demonstrate commitment, dedication, and patriotism by making an intensive commitment to service, a commitment that remains with them in their future endeavors; and

**WHEREAS**, the Corporation for National and Community Service shares a priority with county officials and mayors nationwide to engage citizens, improve lives, and strengthen communities; and is joining with the National League of Cities, National Association of Counties, Cities of Service, and mayors and county officials across the country for the Mayor and County Recognition Day for National Service on April 5, 2016.

**THEREFORE, BE IT RESOLVED** that the City of Radford does hereby proclaim April 5, 2016, as National Service Recognition Day, and encourage residents to recognize the positive impact of national service in our county; to thank those who serve; and to find ways to give back to their communities.

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Bruce E. Brown, Mayor  
City of Radford

**SUBJECT: Child Abuse Prevention Month**

**SUMMARY:** The Town of Christiansburg has requested that the City, as well as the other New River Valley communities join them again this year in recognizing the month of April, 2015 as "Child Abuse Prevention Month". The Proclamation emphasizes the need to prevent child abuse and neglect, as well as heightens awareness of effective child abuse prevention programs, organizations and resources.



*PROCLAMATION  
APRIL 2016  
CHILD ABUSE PREVENTION MONTH*

**WHEREAS**, preventing child abuse and neglect is a community goal that depends on involvement among people throughout the community; and

**WHEREAS**, child maltreatment can occur when people find themselves in stressful situations, without community resources, and without the ability to cope; and

**WHEREAS**, the majority of child abuse cases stem from situations and conditions that are preventable in an engaged and supportive community; and

**WHEREAS**, all citizens should become involved in supporting families in raising their children in a safe, nurturing environment; and

**WHEREAS**, effective child abuse prevention programs succeed because of partnerships created among families, social service agencies, schools, faith communities, civic organizations, law enforcement agencies, and the business community.

**NOW, THEREFORE, BE IT RESOLVED** that the Council of the City of Radford, Virginia does hereby proclaim the month of April 2016 as Child Abuse Prevention Month, and does call upon all citizens, community agencies, faith groups, medical facilities, and businesses to increase their participation in community efforts to support families, thereby preventing child abuse and neglect, and strengthening the community in which we live.

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Bruce E. Brown, Mayor  
City of Radford

**ACTION:** Mr. Marshall made a motion to approve the proclamation as presented, Mr. Turk seconded the motion.

**VOTE:**

**AYES:** Mr. Marshall, Mr. Nicholson, Mr. Turk, Mayor Brown

**NAYES:** None-0

**CITIZENS COMMENTS:**

Rev. McLandish spoke that the minutes reflected a February meeting date and the date needed to be amended to March 14, 2016.

**NEW BUSINESS**

**SUBJECT: Consider F.Y. 2016 Pavement Maintenance Program**

**SUMMARY:** The City has received bids for its 2016 "Pavement Overlay Program". Two responses were received from Boxley Paving and Adams Construction Co. to provide asphalt, milling services, equipment and labor for the program. The low bid is from Boxley Paving Co. in the amount of \$624,609.74.

**ACTION:** Mr. Nicholson made a motion to award the contract to Boxley Paving Co. in the amount of \$624,609.74, Mr. Marshall seconded the motion.

**VOTE:**

**AYES:** Mr. Marshall, Mr. Nicholson, Mr. Turk, Mayor Brown

**NAYES:** None-0

**SUBJECT: Consider establishing reduced special collection fees during month of April**

**SUMMARY:** The month of April is Environmental Awareness Month. To encourage neighborhood clean-up, as well as promote the environment, the City will offer reduced rates for brush and special solid waste collections. The rates for large loads will be reduced to \$35.50, small loads to \$17.50 and furniture and appliances will be half price for the month of April.

**ACTION:** Mr. Marshal made a motion to approve the recommended reductions as outlined in memo, Mr. Turk seconded the motion.

**VOTE:**

AYES: Mr. Marshall, Mr. Nicholson, Mr. Turk, Mayor Brown

NAYES: None-0

**SUBJECT: Appropriation Ordinance # 1673.26: \$13,008 Victim Witness Grant**

**SUMMARY:** The month of April is Environmental Awareness Month. To encourage clean-up, as well as promote the environment, the City will offer reduced rates for brush and special solid waste collections. The rates for large loads will be reduced to \$35.00, small loads to \$17.50 and furniture and appliances will be half price for the month of April.

**ACTION:** Mr. Nicholson made a motion to approve Appropriation Ordinance #1673.26 on its first reading, Mr. Marshall seconded the motion.

**VOTE:**

AYES: Mr. Marshall, Mr. Nicholson, Mr. Turk, Mayor Brown

NAYES: None-0

**ACTION:** Mr. Nicholson made a motion to approve Appropriation Ordinance #1673.26 on its second and final reading, Mr. Marshall seconded the motion.

**VOTE:**

AYES: Mr. Marshall, Mr. Nicholson, Mr. Turk, Mayor Brown

NAYES: None-0

**DISCUSSION:** Basil Edwards, Economic Director gave a power point presentation on the available commercial and industrial properties within the City. He presented options and plans to promote more business development of vacant properties, related job growth and private investment. He discussed the challenges and opportunities that come with developing many of the vacant properties.

Council expressed their desire to actively recruit businesses to locate in Radford.

**CITY MANAGERS COMMENTS:**

Mr. Ridpath shared that the budget will be presented on Wednesday, April 6, 2016 at 6:00. He is pleased to announce that we have been designated as Tree City USA again and appreciates Carly Reynolds and the Beautification Committee for working on getting that again. Also, Jenni Wilder and other staff have been diligently working at revamping our Adopt a Spot program.

**CITY ATTORNEYS COMMENTS:**

Mrs. DeVilbiss requested that Council schedule a public hearing to receive comments regarding the illicit discharge ordinance.

She also shared the Virginia State Corporation Commission regulates companies who file as corporations or a limited liability company and that there is not a disclosure requirement of who the owner is.

**CITY COUNCIL COMMENTS:**

Mr. Nicholson ask the City Attorney if they needed to vote on holding the public hearing for the illicit discharge ordinance.

Mrs. DeVilbiss responded that they could do so.

Mr. Nicholson made a motion to hold a public hearing for the illicit discharge at their April 11, 2016 meeting, Mr. Marshall seconded the motion.

**VOTE:**

AYES: Mr. Marshall, Mr. Nicholson, Mr. Turk, Mayor Brown

NAYES: None-0

Mr. Marshall made a motion to adjourn the meeting at 8:46 p.m., seconded by Mr. Turk.

**VOTE:**

AYES: Mr. Marshall, Mr. Nicholson, Mr. Turk, Mayor Brown

NAYES: None-0

**ATTEST:**

\_\_\_\_\_  
Melissa A. Skelton, City Clerk of Council



HONORING PRESIDENT PENELOPE W. KYLE, J.D.

**WHEREAS**, the City of Radford wishes to honor the service and contributions of Radford University President Penelope W. Kyle, J.D., and

**WHEREAS**, President Kyle has served as Radford University's sixth president since June 1, 2005 and was the university's first female president, and

**WHEREAS**, President Kyle came back to her Southwest Virginia roots, having grown up in Galax, and her love for the region is evident through her civic involvement, and

**WHEREAS**, President Kyle has provided over a decade of leadership and service to the institution, region, community and the Commonwealth, and

**WHEREAS**, Radford University has expanded under the leadership of President Kyle, from the addition of the university's first ever doctoral programs to several enrollment records, including the largest freshman class in school history in 2012, and

**WHEREAS**, the university's commitment to academic excellence and student-centered learning is reflected in a transformative building and renovation campaign, and

**WHEREAS**, with support from the General Assembly, Radford University has secured funding for more than 330 million dollars in capital projects, including both new construction and renovation, since 2005, and

**WHEREAS**, President Kyle has been an advocate and ambassador of the City of Radford and Radford University, promoting all the possibilities and opportunities a Radford education provides, and

**WHEREAS**, President Kyle has championed projects such as the establishment of Radford Transit, in partnership with the City of Radford, the public transit system began in 2011 and has since served over 1,242,500 passengers, and

**WHEREAS**, under President Kyle's leadership Radford University has remained a strong force in the Radford economy with over 408 full time employees living in the city, and

**WHEREAS**, the Scholar Citizen initiative, started under her tenure, has empowered students to volunteer and embrace the Radford community, with many student athletes and student groups volunteering in Radford City Public Schools and assisting with community service projects, and

**WHEREAS**, Radford has been the host of Virginia Governor's School, Virginia Boy's State and the Virginia High School League Spring Jubilee throughout much of her tenure as president, and

**WHEREAS**, President Kyle has continued the partnership with the City of Radford to promote cultural experiences within the community, including events such as the Radford Highlanders Festival, and

**WHEREAS**, in addition to her duties as president of Radford University, Penelope Kyle has served the Southwest Virginia community and the entire Commonwealth as a member of numerous boards and commissions, including the board of directors for the Roanoke Regional Chamber of Commerce and the Foundation for Educational Exchange between the United States and Canada, the Knight Commission on Intercollegiate Athletics, and the Governor's Task Force on Combating Campus Sexual Violence; and

**WHEREAS**, President Kyle's legacy will continue through the Radford community, even after retirement, as Radford University remains one of the "Best Colleges and Universities in the Southeast."

**NOW, THEREFORE BE IT RESOLVED**, that the Radford City Council does hereby honor and thank President Penelope W. Kyle for her eleven years of service and leadership to Radford University and the lasting impact her influence will have on the field of education and City of Radford.

\_\_\_\_\_  
Bruce E. Brown, Mayor  
City of Radford

Attest: \_\_\_\_\_  
Melissa Skelton, City Clerk

Adopted: April 11, 2016



**PROCLAMATION**  
***National Library Week 2016***  
***"Libraries Transform"***

**WHEREAS**, libraries have historically served as our nation's great equalizers of knowledge by providing free access to all;

**WHEREAS**, libraries work to meet the changing needs of their users, including building collections, expanding outreach services and increasing programming;

**WHEREAS**, our nation's libraries provide a forum for diverse ideas and points of view that help us better understand each other and ourselves;

**WHEREAS**, librarians are trained professionals, helping people of all ages and backgrounds find and interpret the information they need to live, learn and work in a challenging economy;

**WHEREAS**, librarians design and offer programs to meet their community's economic needs, providing residents with resume writing classes, interviewing workshops and job seeking resources;

**WHEREAS**, libraries are part of the American dream, places for education, opportunity and lifelong learning;

**WHEREAS**, libraries, librarians, library workers and supporters across America are celebrating National Library Week.

**NOW, THEREFORE**, be it resolved that the City Council of the City of Radford, do hereby proclaim April 10<sup>th</sup> -16<sup>th</sup>, 2016 as National Library Week and encourages all residents to visit the library this week to take advantage of the wonderful library resources available @ your Radford Public library.

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Dr. Bruce E. Brown, Mayor  
City of Radford

**ORDINANCE NO. 1681**

**AN ORDINANCE ADOPTING A NEW ARTICLE II: ILLICIT DISCHARGE,  
TO THE CITY'S STORMWATER MANAGEMENT ORDINANCE, IN CHAPTER 32,  
OF THE RADFORD CITY CODE OF ORDINANCES**

**WHEREAS**, the City Council of the City of Radford, Virginia finds that the uncontrolled discharge of pollutants to its Municipal Separate Storm Sewer System (MS4) has an adverse impact on the water quality of receiving waters; and

**WHEREAS**, amendments to the Federal Water Pollution Control Act, commonly known as the Clean Water Act, established the National Pollutant Discharge Elimination System (NPDES) Program, which requires permits for discharges from regulated municipal separate storm sewer systems into the waters of the United States; and

**WHEREAS**, the United States Environmental Protection Agency (EPA) has promulgated regulations implementing the NPDES Program, and the EPA has authorized the Commonwealth of Virginia to issue NPDES permits under the Virginia Pollutant Discharge and Elimination System (VPDES) permit system; and

**WHEREAS**, the VPDES regulations for stormwater discharges requires the City of Radford, Virginia to control the contribution of pollutants to its regulated MS4 by prohibiting illicit discharges, and to inspect, monitor, and enforce the prohibitions of illicit discharge to the regulated MS4, and an Ordinance is required to set forth the necessary provisions of the regulations, and the compliance thereunto, to protect the City's MS4, as set forth and provided for in this Ordinance No. 1681; and

**WHEREAS**, a public hearing upon this Ordinance No. 1681, prior to its adoption, was held on \_\_\_\_\_, 2016, at a regular meeting of the Radford City Council, to receive public comment, following the duly advertised notice thereof of the public hearing regarding this

Ordinance NO. 1681; and

**WHEREAS**, the Radford City Council finds that this Illicit Discharge Ordinance No. 1681, is necessary, and satisfies the regulatory requirements, and upon adoption, is and this Ordinance shall be an integral part of and shall supplement the City's Stormwater Management Ordinance No. 1662, adopted and effective as of July 1, 2014, and set forth in Chapter 32, of the Radford City Code of Ordinances; and

**WHEREAS**, the Illicit Discharge Ordinance provisions related to the City's MS-4 as set forth herein shall follow the City's Stormwater Management Ordinance, in Article I, of Chapter 32, of the Radford City Code; and

**NOW THEREFORE BE IT ORDAINED** by the City Council of the City of Radford, Virginia, as follows:

1. That a new Article II. "Illicit Discharge" is and the same hereby is added to Chapter 32, Stormwater Management, of the Radford City Code of Ordinances, and hereby is adopted to read as set forth below.

2. That the effective date of this Ordinance is \_\_\_\_\_, 2016.

## **ARTICLE II**

### **ILLICIT DISCHARGE**

#### **Sec. 32-18 TITLE AND AUTHORITY**

- A. This Ordinance shall be known as the "Illicit Discharge Ordinance of the City of Radford, Virginia."
- B. This Ordinance establishes the City's illicit discharge program that regulates non-stormwater discharges to its regulated Municipal Separate Storm Sewer System (MS4), consistent with state and federal regulations promulgated pursuant to the law.
- C. The City of Radford hereby designates the \_\_\_\_\_, as the Administrator of the illicit discharge program.

### **Sec. 32-19 PURPOSE**

The purpose of this Ordinance is to promote the general health, safety, and welfare of the citizens of the City by protecting property and state waters through the prohibition of illicit discharges of non-stormwater within the City's regulated MS4 area into the City's MS4, subject to certain exceptions.

### **Sec. 32-20 APPLICABILITY**

This Ordinance is applicable to any non-stormwater discharge that enters, or has the potential of entering, the City's MS4, located within the City's regulated MS4 area.

### **Sec. 32-21 COMPATABILITY WITH OTHER REQUIREMENTS**

This Ordinance is not intended to interfere with, abrogate, or annul any other Ordinance, rule or regulation, statute, or other provision of law. The requirements of this Ordinance shall be considered minimum requirements, and where any provision of this Ordinance imposes restrictions different from those imposed by any other Ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall apply.

### **Sec. 32-22 SEVERABILITY**

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this Ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this Ordinance.

### **Sec. 32-23 DEFINITIONS**

The following words and terms as used in this Ordinance shall have the following meanings, unless the context clearly indicates otherwise:

**"Administrator"** means the position responsible for administering the illicit discharge program on behalf of the City of Radford. The Administrator shall be the \_\_\_\_\_, or his/her designee.

**"Best Management Practices or "BMP"** means schedules of activities, prohibitions of practices, including both structural or non-structural practices, maintenance procedures, and other management practices to prevent or reduce the pollution of surface waters and groundwater systems from the impacts of land-disturbing activities.

**"City"** means the City of Radford, Virginia.

**"Clean Water Act or CWA"** means the federal Clean Water Act (33 United States Code 1251 et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-

217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, or any subsequent revisions thereto.

**"Control measure"** means any best management practice or other method used to prevent or reduce the discharge of pollutants to surface waters.

**"Department"** means the Virginia Department of Environmental Quality (DEQ).

**"Discharge"** means to dispose, deposit, spill, pour, inject, dump, pump, leak, or place by any means, or that which is disposed, deposited, spilled, poured, injected, dumped, pumped, leaked, or placed by any means.

**"Illicit discharge"** means any discharge to the City's MS4 that is not composed entirely of stormwater, except discharges pursuant to a VPDES or VSMP permit (other than the VSMP permit for discharges from the MS4), discharges resulting from firefighting activities, and discharges identified by and in compliance with 9VAC25-870-400 D 2 c (3).

**"Municipal separate storm sewer"** means a conveyance or system of conveyances otherwise known as a municipal separate storm sewer system or "MS4," including roads with drainage systems, municipal streets, catch basins, drop inlets, curbs, gutters, ditches, man-made channels, storm drainage pipes, or other drainage structures:

1. Owned or operated by the City;
2. Designed or used for collecting or conveying stormwater;
3. That is not a combined sewer; and
4. That is not part of a publicly owned treatment works (POTW).

**"Municipal separate storm sewer system" or "MS4"** means all municipal separate storm sewers that are located within the portion of the City that is identified as "urbanized" by the U.S. Bureau of the Census in the latest Decennial Census.

**"National Pollutant Discharge Elimination System" or "NPDES"** means the federal program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits, and imposing and enforcing pre-treatment requirements under the Clean Water Act (CWA).

**"Person"** means any individual, firm, organization, partnership, association, organization or other entity, including governmental entities, or any combination thereof, or any agent or employee of any such entity.

**"State waters"** means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.

**"Stormwater"** means precipitation that is discharged across the land surface or through conveyances to one or more waterways, which may include rainfall runoff, snow melt runoff, and surface runoff and drainage.

**“Virginia Pollutant Discharge Elimination System” (VPDES)** means the program issued by the Commonwealth of Virginia for imposing and enforcing pre-treatment requirements pursuant to the Clean Water Act (CWA).

**“Virginia Stormwater Management Program” (VSMP)** means a program approved by the State Board as of July 1, 2014, that has been established by a locality to manage the quality and quantity of runoff resulting from land-disturbing activities, which shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in this article, and evaluation consistent with the requirements of this article and associated regulations.

### **Sec. 32-24 PROHIBITED DISCHARGES**

- A. It shall be unlawful and a violation of this Ordinance to allow any discharge that is not composed entirely of stormwater, except as described in subsection C below, that enters, or has the potential of entering, the MS4.
- B. Illicit discharges include, but are not limited to:
1. Discharging, or causing or allowing to be discharged, sewage, industrial wastes, yard wastes, or other wastes, into the storm sewer system, or any component thereof, or onto driveways, sidewalks, parking lots, the ground, or any other areas draining to the storm sewer system.
  2. Connecting, or causing or allowing connection of any sanitary sewer to the storm sewer system, including any sanitary sewer connected to the storm sewer as of the date of the adoption of this Ordinance.
  3. Connecting, or causing or allowing any connection to the storm sewer system, without a valid VSMP, VPDES, or NPDES permit, any structure that conveys any liquid other than stormwater or discharges listed in subsection C, including, but not limited to, pipes, drains, sanitary sewer lines, washing machine drains, or floor drains.
  4. Prohibitions 2 and 3 listed in this subsection expressly include, without limitations, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of the connection.
  5. Throwing, placing, or depositing, or causing to be thrown, placed, or deposited in the storm sewer system anything that impedes or interferes with the free flow of stormwater therein, or adversely affects water quality.

- C. The following non-stormwater discharges are allowable under this Ordinance:
1. Discharges or flows covered by a separate individual or general VPDES or VSMP permit for non-stormwater discharges;
  2. Individual non-stormwater discharges or flows that have been identified in writing by the Virginia Department of Environmental Quality as de minimis discharges that are not significant sources of pollutants to state waters and do not require a VPDES permit;
  3. Non-stormwater discharges or flows as listed in the following categories, unless they are identified by the Administrator or Virginia Water Control Board, as significant contributors of pollutants.
    - a. Water line flushing;
    - b. Landscape irrigation;
    - c. Diverted stream flows or rising groundwater;
    - d. Uncontaminated ground water infiltration;
    - e. Uncontaminated pumped groundwater;
    - f. Discharges from potable water sources;
    - g. Foundation drains;
    - h. Air conditioning condensate;
    - i. Irrigation water;
    - j. Springs;
    - k. Water from crawl space pumps;
    - l. Footing drains;
    - m. Lawn watering;
    - n. Individual residential car washing;
    - o. Flows from riparian habitats and wetlands;
    - p. Dechlorinated swimming pool discharges;
    - q. Street wash water; and
    - r. Firefighting activities
  4. The discharge of material resulting from a spill that is necessary to prevent loss of life, personal injury, or severe property damage. The responsible party shall take all reasonable steps to minimize or prevent any adverse effect on human health or the environment. This provision does not transfer liability for the spill itself from the party(ies) responsible for the spill, nor relieve the party(ies) responsible for a spill from the reporting requirements of 40 CFR Part 117 and 40 CFR Part 302 (2001).

D. In the event any of the activities listed in sub-paragraph C (3) of this section are found to be a significant contributor of pollutants to be discharged into the MS4, the Administrator shall so notify the person performing such activities, and shall order that such activities be ceased or be conducted in such a manner as to avoid the discharge of pollutants into the MS4. The failure to comply with any such order shall constitute a violation of the provisions of this Ordinance.

## **Sec. 32-25 INSPECTIONS AND MONITORING**

- A. The Administrator shall have the authority to carry out all inspections and monitoring procedures necessary to determine compliance and/or noncompliance with this Ordinance, and to enforce the requirements of this Ordinance.
- B. The Administrator shall have the authority, at his sole discretion, to require a Stormwater Pollution Prevention Plan (SWPPP) from any person whose property discharges, or has the potential to discharge, to the MS4.
- C. The Administrator and/or his/her duly authorized employees, agents, or representatives of the City, bearing proper credentials and identification, shall be authorized to enter any public property or to request entry into private property at any reasonable time for the purpose of enforcing this Ordinance, including, but not limited to taking samples of discharges, inspecting monitoring equipment, inspecting and copying documents relevant to the enforcement of this Ordinance, and such other items as may be deemed necessary for the enforcement of this Ordinance.

If the person in charge of the property refuses to allow the Administrator to enter in accordance with subsection C, then the Administrator may present sworn testimony to a magistrate or court of competent jurisdiction and request the issuance of an inspection warrant to enter the property for the purpose of making such inspections and investigations. The Administrator shall make a reasonable effort to obtain consent from the owner or person in charge of the property prior to seeking the issuance of an inspection warrant under this section.

- D. The Administrator shall have the authority to require any person responsible for a discharge to the MS4 to document that such discharge meets and is in compliance with the requirements of this Ordinance. This includes, but is not limited to, the ability of the Administrator to require such person to provide monitoring reports, test results, and such other matters as may be deemed necessary to show that such discharge is in compliance with the requirements of this Ordinance. The cost of any required documentation shall be the responsibility of the person responsible for the discharge.
- E. The failure of any person to comply with any of the requirements of this section shall constitute a violation of this Article.

## **Sec. 32-26 ENFORCEMENT AND PENALTIES**

- A. Any person who violates any of the provisions of this Ordinance shall be guilty of a Class I misdemeanor and, upon conviction, is subject to punishment by a fine of not more than two thousand five hundred dollars (\$2,500.00) per violation per day and confinement in jail for not more than twelve (12) months, either or both.
- B. Each day during which a violation of this Ordinance occurs or continues shall be deemed a separate and distinct violation of this chapter.
- C. Any person who commits any of the acts prohibited by this chapter or violates any of the provisions of this Ordinance shall be liable to the City for all costs of testing, containment, cleanup, abatement, removal, disposal, and any other related costs or expenses that the City may incur in connection with the enforcement of this Ordinance and/or the prohibition and/or correction of a violation of this Ordinance.
- D. The Administrator may bring legal action to enjoin a violation of this Ordinance and the existence of any other remedy shall be no defense to any such action.
- E. In addition to any of the remedies set forth above, the Administrator may seek to impose, or have imposed by the appropriate authority, any of the remedies provided for by § 62.1-44.15:48, Code of Virginia (1950), as amended, which are incorporated herein by reference, and made a part hereof.
- F. In any court action that may result from enforcement of this Ordinance, a judge hearing the case may direct the person responsible for the violation or the property owner to correct the violation and each day that the violation continues shall constitute a separate violation of this chapter.
- G. Any person who knowingly makes any false statements, representations, or certifications in any record, report, or other document, either filed or requested pursuant to this chapter, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required or used by the director under this chapter in monitoring discharges, shall be guilty of a violation of this Ordinance.
- H. The remedies set forth in this section shall be cumulative, not exclusive, and it shall be no defense to any action that one (1) or more of the remedies set forth in this section has been sought or granted.