

ORDINANCE NO. O-2012-010

**AN ORDINANCE ESTABLISHING STORMWATER MANAGEMENT REGULATIONS FOR
THE CITY OF SEVIERVILLE, TENNESSEE**

WHEREAS, the City of Sevierville, Tennessee desires to properly maintain and enhance the City's Stormwater Management System and lakes, rivers, streams, ponds, wetlands, and groundwater which receive stormwater runoff; **AND**,

WHEREAS, the adoption of this ordinance will bring the City into compliance with the National Pollution Discharge Elimination System requirements as set out in 40 CFR 122.26 and related regulations, and allow the City to exercise the powers granted in 68-221-1105, TENNESSEE CODE ANNOTATED, regarding the management of stormwater runoff

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND
ALDERMEN OF THE CITY OF SEVIERVILLE, TENNESSEE THAT:**

SECTION 1. Title 18 Chapter 4 of the Sevierville Municipal code is hereby deleted in its entirety and replaced by the following:

SECTION 2. CHAPTER 4 -STORMWATER ORDINANCE

SECTION

18-401.	General provisions.
18-402.	Definitions.
18-403.	Land disturbance permits.
18-404.	Stormwater system design and management standards.
18-405.	Post construction.
18-406.	Existing locations and developments.
18-407.	Illicit discharges.
18-408.	Enforcement.
18-409.	Penalties.
18-410.	Appeals.

18-401. General provisions.

(1). Purpose. It is the purpose of this ordinance to:

- (a) Protect, maintain, and enhance the environment of the City of Sevierville and the public health, safety and the general welfare of the citizens of the city, by controlling discharges of pollutants to the city's stormwater system and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams,

ponds, wetlands, and groundwater of the city.

- (b) Enable the City of Sevierville to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR 122.26 for stormwater discharges.
- (c) Allow the City of Sevierville to exercise the powers granted in Tennessee Code Annotated §68-221-1105, which provides that, among other powers municipalities have with respect to stormwater facilities, is the power by ordinance or resolution to:
 - i. Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the municipality, whether or not owned and operated by the municipality;
 - ii. Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;
 - iii. Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality;
 - iv. Review and approve plans and plats for stormwater management in proposed subdivisions or commercial developments;
 - v. Issue permits for stormwater discharges, or for the construction, alteration, extension, or repair of stormwater facilities;
 - vi. Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;
 - vii. Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and
 - viii. Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private.

(2). Administering entity. The City Engineer shall administer the provisions of this chapter.
(Ord. #2008-014, June 2008)

(3). Right of Entry: The City Engineer shall make inspections and investigations, carry on research or take on such other actions as may be necessary to carry out this administration of regulations; enter at all reasonable times upon any property other than dwelling places for the purpose of conducting investigations and studies or enforcing any of the provisions of this resolution, pursuant to TCA 69-3-107 (5) and (6).

18-402. Definitions. For the purpose of this ordinance, the following definitions shall apply: words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

- (1) "Agricultural operations." Activities related to the production of goods through the growing of plants and/or animals.
- (2) "As built plans". Drawings depicting conditions as they were actually constructed.
- (3) "Baseflood." The flood having a one percent (1%) chance of being equaled or exceeded in any given year.
- (4) "Best management practices" or BMPs. Physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, that have been approved by the city engineer, and that have been incorporated by reference into this ordinance as if fully set out therein.

[NOTE: § 18-404(1) for recommended BMP manual.]

- (5) "Blue line stream." Any stream, creek, lake, pond, or other body of water shown as a blue line on a 7.5 minute USGS quadrangle map.
- (6) "Board of Mayor and Alderman" (BMA). The governing body of the City of Sevierville, Tennessee.
- (7) *Borrow PIT*-An excavation from which erodible material (typically soil) is removed to be fill for another site , and shall be considered a construction activity for the purpose of this permit.
- (8) "Buffer Zone." As used in this ordinance, an area parallel to the top of the bank of a stream, river, creek, pond, lake, or other body of water and which runs along the length or circumference of a body of water for the purpose of protecting a body of water from non point source pollutants, including eroded soils.
- (9) "Channel." A natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.
- (10) *Clearing*. Typically refers to the removal of vegetation and disturbance of soil prior to grading or excavating in anticipation of construction activities.

- (11) *Common Plan of Development* – Any announcement or documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot. A common plan of development identifies a situation in which multiple areas of disturbance are occurring on contiguous areas. This applies because the activities may take place at different times, on different schedules, by different operators.
- (12) “City engineer.” The city engineer is the person hired by the City of Sevierville to oversee the general engineering activities of the city and shall include his designated representative(s).
- (13) “Community water.” Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the City of Sevierville.
- (14) “Contaminant.” Any physical, chemical, biological, or radiological substance or matter in water.
- (15) “Design storm event.” A hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of stormwater facility. The estimated design rainfall amounts, for any return period interval (i.e., 2-yr, 5-yr, 25-yr, etc.,) in terms of either 24-hour depths or intensities for any duration, can be found by accessing the following NOAA National Weather Service Atlas 14 data for Tennessee: http://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html?bkmrk=tn.
- (16) “Diameter-at-Breast-Height” (DBH). The diameter, in inches, of a tree trunk as measured four and one-half feet (4 ½’) above the ground. If the tree splits into multiple trunks at or below four and one half feet (4 ½’), the trunk is measured at its most narrow point beneath the split. Diameter-at-breast-height is used as a measurement standard for relatively large trees.
- (17) “Discharge.” Dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the municipal separate storm sewer system.
- (18) “Easement.” An acquired privilege or right of use or enjoyment that a person, party, firm, corporation, municipality or other legal entity has in the land of another.

- (19) "Erosion." The removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by anthropogenic activities or effects.
- (20) "Erosion prevention and sediment control plan." (EPSCP) A written plan (including drawings or other graphic representations) that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.
- (21) "Exceptional and mature tree." A tree consistent with one (1) of the following characteristics:
- (a) Any hardwood tree which has a DBH of ten inches (10") or greater, or any evergreen tree which has a DBH of fifteen inches (15") or greater, and/or any dogwood (*Comus florida*) or redbud (*Cercis Canadensis*) which has a DBH of more than four inches (4");
 - (b) Any specimen tree; and
 - (c) Any public tree.
- (22) "Hotspot (priority area)." An area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. The following land uses and activities are deemed stormwater hot spots, but that term is not limited to only these land uses:
- (a) vehicle salvage yards and recycling facilities
 - (b) vehicle service and maintenance facilities
 - (c) vehicle and equipment cleaning facilities
 - (d) fleet storage areas (bus, truck, etc.)
 - (e) industrial sites (included on Standard Industrial Classification code list)
 - (f) marinas (service and maintenance)
 - (g) public works storage areas
 - (h) facilities that generate or store hazardous waste materials
 - (i) commercial container nursery
 - (j) restaurants and food service facilities
 - (k) other land uses and activities as designated by an appropriate review authority
- (23) "Illicit connections." Any illegal and/or unauthorized connections to the municipal separate stormwater system whether or not such connections result in discharges into that system.
- (24) "Illicit discharge." Any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under § 18-403(3).
- (25) *Improved Sinkhole* - A natural surface depression that has been altered in order to direct fluids into the hole opening. Improved sinkhole is a type of injection well regulated under TDEC's Underground Injection Control (UIC) program.

Underground injection constitutes an intentional disposal of waste waters in natural depressions, open fractures, and crevices (such as those commonly associated with weathering of limestone).

- (26) *Inspector* - An inspector is a person that has successfully completed (has a valid certification from) the "Fundamentals of Erosion Prevention and Sediment Control Level I" course or equivalent course. An inspector performs and documents the required inspections, paying particular attention to time-sensitive permit requirements such as stabilization and maintenance activities.
- (27) "Land disturbing activity." Any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation.
- (28) *Linear Project* – A land disturbing activity as conducted by an underground/overhead utility or highway department, including but not limited to any cable line or wire for the transmission of electrical energy; any conveyance pipeline for transportation of gaseous or liquid substance; any cable line or wire for communications; or any other energy resource transmission ROW or utility infrastructure, e.g., roads and highways. Activities include the construction and installation of these utilities within a corridor. Linear project activities also include the construction of access roads, staging areas, and borrow/spoil sites associated with the linear project. Land disturbance specific to the development of a residential and/or commercial subdivision or high-rise structures is not considered a linear project.
- (29) "Maintenance." Any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater facility.
- (30) "Maintenance agreement." A document recorded in the land records that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.
- (31) "Municipal separate storm sewer system" (MS4). The conveyances owned or operated by the city for the collection and transportation of stormwater, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.

- (32) "National pollutant discharge elimination system permit." A permit issued pursuant to 33 U.S.C. 1342.
- (33) NOC – Notice of Coverage
- (34) NOI – Notice of Intent form.
- (35) NOT – Notice of Termination form.
- (36) "Nursery." A place where young trees or other plants are raised for transplanting, for sale, or for experimental study.
- (37) "Off-site facility." A structural BMP located outside the subject property boundary described in the permit application for land development activity.
- (38) "On-site facility." A structural BMP located within the subject property boundary described in the permit application for land development activity.
- (39) "Peak flow." The maximum instantaneous rate of flow of water at a particular point resulting from a storm event.
- (40) "Person." Any and all persons, natural or artificial, including any individual, firm or association and any municipal or private corporation organized or existing under the laws of this or any other state or country.
- (41) "Planning Commission." The Sevierville Planning Commission.
- (42) "Priority area." A hot spot as defined in §18-402(22)
- (43) *Quality Assurance Site Assessment* – A documented site inspection to verify the functionality and performance of the SWPPP and for determining if construction, operation, and maintenance accurately comply with permit requirements as presented.
- (44) "Runoff." That portion of the precipitation on a drainage area that is discharged from the area into the municipal separate stormwater system.
- (45) "Sediment." Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.
- (46) "Sedimentation." Soil particles suspended in stormwater that can settle in stream beds and disrupt the natural flow of the stream.

- (47) "Soils Report." A study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees.
- (48) "Specimen tree." A particularly impressive or unusual example of species due to its size, shade, shape, age, or any other trait that, in the opinion of the professional responsible for preparing the tree preservation/removal plan, epitomizes the character of the species.
- (49) "Stabilization." Providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.
- (50) Steep slope - A natural or created slope of 30% grade or greater. Designers of sites with steep slopes must pay attention to stormwater management in the SWPPP to engineer runoff nonerosively around or over a steep slope. In addition, site managers should focus on erosion prevention on the slope(s) and stabilize the slope(s) as soon as practicable to prevent slope failure and/or sediment discharges from the project.
- (51) "Stormwater". Stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.
- (52) "Stormwater management." The programs to maintain quality and quantity of stormwater runoff to pre-development levels.
- (53) "Stormwater management facilities." The drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed.
- (54) "Stormwater management plan." The set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMPs, concepts and techniques intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels.
- (55) *Stormwater Pollution Prevention Plan (SWPPP)* – a written plan that includes site map(s), an identification of construction/contractor activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants. It must be prepared and approved before construction begins.
- (56) "Stormwater runoff." Flow on the surface of the ground, resulting from precipitation.
- (57) "Structural BMPs." Devices that are constructed to provide control of

stormwater runoff.

- (58) "Surface water." Waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other watercourses, lakes and reservoirs.
- (59) "Tennessee Code Annotated" (TCA). A compilation of the laws of the State of Tennessee.
- (60) "Tennessee Department of Environment and Conservation" (TDEC). A department of the government of the State of Tennessee.
- (61) "TDEC Manuals." Sediment and Erosion Control and Post Construction Manuals approved by TDEC for stormwater system design and installation.
- (62) *Turbidity* - The cloudiness or haziness of a fluid caused by individual particles (suspended solids) that are generally invisible to the naked eye, similar to smoke in air.
- (63) *Waste site* – An area where waste material from a construction site is deposited when the material is eroding, such as soil, the site must be treated as a construction site.
- (64) "Watercourse." A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.
- (65) "Watershed." All the land area that contributes runoff to a particular point along a waterway. (Ord. #2008-014, June 2008)
- (66) *Waters/Waters of the State* – Any and all water, public or private, on or beneath the surface of the ground, which are confined within, flow through, or board upon Tennessee or any portion thereof, except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine or effect a junction with natural surface or underground waters.
- (67) *Wetlands*- Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted to life in saturated soil conditions. Wetlands include, but are not limited to, swamps marshes, bogs, and similar areas.
- (68) *Wet weather conveyances*-Man-made or natural watercourses, including natural watercourses that have been modified by channelization, that flow only in direct response to precipitation runoff in their immediate locality and whose channels are above the groundwater table and are not suitable for drinking water supplies;

and in which hydrological and biological analyses indicate that, under normal weather conditions is not sufficient water to support fish or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two months. (Rules & Regulations of the State of Tennessee, Chapter 120-4-3-.04(3)).

18-403. Land disturbance permits.

(1). Land Disturbing Activities Requiring a Permit.

Every person will be required to obtain a land disturbance permit from the City Engineer in the following cases:

- i. Land disturbing activity disturbs one (1) or more acres of land;
- ii. Land disturbing activity of less than one (1) acre of land if such activity is part of a larger common plan of development that affects one (1) or more acre of land; and, land disturbing activity of less than one (1) acre of land, as provided for below, or if in the discretion of the city engineer such activity poses a unique threat to water, or public health or safety; Projects or developments of less than one acre of total land disturbance may also be required to obtain coverage if:
 - a) The City Engineer has determined that the stormwater discharge from a site is causing, contributing to or is likely to contribute to a violation of a stormwater quality violation.
 - b) The City Engineer has determined that a stormwater discharge is, or is likely to be a significant contributor of pollutants to waters of the state.
 - c) Changes in State or Federal rules require sites of less than one acre that are not part of a larger common plan of development or sale to obtain a stormwater permit.
 - d) Any new development or redevelopment, regardless of size, that is defined by the City Engineer to be a hot spot land use.
- iii. The creation and operation of borrow pits where material is

excavated and relocated offsite, and fill sites where materials or earth is deposited by mechanized methods resulting in an increase elevation or grade.

- iv. If the City Engineer determines that a construction activity is ongoing without a land disturbance permit TDEC must be notified and the following information shall be provided to the nearest field office.

a) Construction Project or Industrial Facility Location.

b) Name of the Operator or Owner

c) Estimated Construction Project or site or type industrial activity (including SIC code if known)

d) Records of communication with the owner or operator.

- (2) Building permit. A building permit shall not be issued until the applicant has obtained a land disturbance permit where the same is required by this chapter.

- (3) Exemptions. The following activities are exempt from the permit requirement:

- (a) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
- (b) Existing nursery and agricultural operations conducted as a permitted main or accessory use.
- (c) Any logging or agricultural activity that is consistent with an approved farm conservation plan or a timber management plan prepared or approved by the appropriate federal or state agency.
- (d) The owner or developer whose land disturbing activity has been exempted from requirements shall be held responsible for conducting such activity in accordance with the provisions of this ordinance and other applicable laws including responsibility for controlling erosion and sediment where individual lots or sections in a subdivision are being developed by different property owners, all Earth disturbing activities related to the subdivision shall be covered by the approved stormwater pollution prevention plan (SWPPP); Such developments are subject to the terms of the requirements therein, including but not limited to: gravel construction entrance/exits, necessary erosion controls, concrete washing restrictions, etc.

- (4) Limitations. The City Engineer shall not grant land disturbance coverage for discharges into waters that are designated as "outstanding national resource waters" (ONRW). An individual permit is required for land disturbance activities and is available from TDEC.

(5) Application for a land disturbance permit. Each application shall include the following:

- (a) Name of applicant;
- (b) Business or residence address of applicant;
- (c) Applicant's designated contact person including the representative's contact information including but not limited to phone number and email address.
- (d) Name, address and telephone number of the owner of the property of record in the office of the assessor of property;
- (e) Address and legal description of subject property including the tax map and parcel number of the subject property;
- (f) Name, address and telephone number of the contractor and any subcontractor(s) who shall perform the land disturbing activity and who shall implement the erosion and sediment control plan;
- (g) A statement indicating the nature, extent and purpose of the land disturbing activity including the size of the area for which the permit shall be applicable and a schedule for the starting and completion dates of the land disturbing activity.
- (h) Where the property includes a sinkhole, the applicant shall obtain from TDEC appropriate permits.
- (i) The applicant shall obtain any other environmental permits that may be required from any other government entity. If Aquatic Resource Alteration Permits (ARAP) are required for a site in areas proposed for active construction, the land disturbance permit will not be issued until ARAP applications are submitted and deemed by TDEC to be complete. The treatment and disposal of wastewater (including, but not limited to sanitary wastewater) generated during and after the construction must also be processed. The issuance of the permit may be delayed until adequate wastewater treatment and accompanying permits are issued. The inclusion of any such permits in the application shall not prevent the City from imposing additional development requirements and conditions, commensurate with this chapter other ordinances and regulations of the city, on the development of property covered by those permits.

Each application shall be accompanied by:

- i. A sediment and erosion control plan as described in § 18-404.
- ii. A stormwater management plan as described in § 18-404, providing for stormwater management during the land disturbing activity and after the activity has been completed.
- iii. Each application for a land disturbance permit shall be accompanied by payment of land disturbance permit and other stormwater management fees, which shall be set by resolution, adopted by the Board of Mayor and Aldermen (BMA).

(6) Review and approval of application.

- (a) The City Engineer will review each application for a land disturbance permit to determine its conformance with the provisions of this ordinance and other applicable ordinances and regulations. Within thirty (30) days after receiving an application the city shall provide one (1) of the following responses in writing to the applicant:
 - i. Approval of the permit application;
 - ii. Conditional approval of the permit application, subject to such reasonable conditions as may be necessary to secure substantially the objectives of this ordinance, and issue the permit subject to these conditions; or
 - iii. Denial of the permit application, indicating the reason(s) for the denial.
- (b) If the city engineer has granted conditional approval of the permit, the applicant shall submit a revised plan that conforms to the conditions established by the city engineer. However, the applicant shall be allowed to proceed with his land disturbing activity so long as it conforms to conditions established by the city engineer.
- (c) No site plan, planned unit development plan, and/or subdivision plat shall be considered as having received final approval until such time as all conditions have been met and a land disturbance permit is issued to the applicant.

(7) Permit duration.

Every land disturbance permit shall expire and become null and void if twenty-five percent (25%) of work authorized by such permit has not commenced within one hundred eighty (180) calendar days of issuance, and the permit life shall be three hundred sixty-five (365) days unless granted an extension. Extensions shall be applied for thirty (30) calendar days prior to the end of the three hundred sixty-five (365) day permit period.

(8) Notice of land disturbance. The applicant must notify the city engineer ten (10) working days in advance of the commencement of land disturbance.

(9) Performance bonds.

The city engineer may, at his/her discretion, require the submittal of a performance security or performance bond prior to issuance of a permit in order to ensure that the stormwater practices are installed by the permit holder as required by the approved stormwater management plan. The amount of the installation performance security or performance bond shall be the total estimated construction cost of the structural BMPs approved under the permit plus any reasonably foreseeable additional related costs, e.g., for damages or enforcement. The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan. The applicant

shall provide an itemized construction cost estimate complete with unit prices, which shall be subject to acceptance, amendment or rejection by the city engineer. Alternatively the city engineer shall have the right to calculate the cost estimates for the construction.

The performance security or performance bond shall be released in full only upon submission of as-built plans and written certification by a registered professional engineer licensed to practice in Tennessee that the structural BMP has been installed in accordance with the approved plan and other applicable provisions of this chapter. The city engineer will make a final inspection of the structural BMP to ensure that it is in compliance with the approved plan and the provisions of this ordinance. Provisions for a partial pro-rata release of the performance security or performance bond based on the completion of various development stages can be made at the discretion of the city engineer. It shall be the responsibility of the applicant to secure and renew the performance security or performance bond as necessary. Failure to obtain a timely renewal of bond shall result in revocation of the permit and/or the issuance of a stop work order.

(10) Transfer of ownership.

(a) Some construction projects, such as residential or commercial subdivisions and/or developments of industrial parks are subdivided. Subdivided lots are sometimes sold to new owners prior to completion of construction. The site wide developer/ owner must describe erosion control and sediment prevention measures implemented at those lots. Once the property is sold, the new operator must obtain coverage under this permit.

(b) If the transfer of ownership is due to foreclosure or a permittee filing for bankruptcy proceedings, the new owner (including but not limited to a lending institution) must obtain permit coverage if the property is inactive, but is not stabilized sufficiently. If the property is sufficiently stabilized permit coverage may not be necessary, unless and until construction activity at the site resumes.

8-404. Design of Stormwater systems: Construction and Permanent.

(1). MS4 stormwater design or BMP manuals.

- (a) Adoption. The city adopts as its MS4 stormwater design and best management practices (BMP) manuals for stormwater management, construction and permanent, the following publications, which are incorporated by reference in this ordinance as if fully set out herein:
- (i) TDEC Erosion Prevention and Sediment Control Handbook; most current edition.
 - (ii) TDEC Manual for Post Construction; most current edition.

(b) Stormwater facilities that are designed, constructed and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.

(2). Submittal of a copy of the NOC, SWPPP and NOT to the City Engineer

Permittees who discharge stormwater through an NPDES-permitted municipal separate storm sewer system (MS4) must provide proof of coverage under the Construction General

Permit (CGP); submit a copy of the Stormwater Pollution Prevention Plan (SWPPP); and at project completion, a copy of the signed notice of termination (NOT) to the City Engineer. Permitting status of all permittees covered (or previously covered) under this general permit as well as the most current list of all MS4 permits is available at the TDEC's DataViewer web site.

Copies of additional applicable local, state or federal permits (i.e.: ARAP, etc.) must also be provided upon request.

If requested, these permits must be provided before the issuance of any land disturbance permit or the equivalent.

(3). Stormwater Pollution Prevention Plan (SWPPP) for Construction Stormwater Management: The applicant must prepare a stormwater pollution prevention plan for all construction activities that complies with subsection (7) below. The purpose of this plan is to identify construction/contractor activities that could cause pollutants in the stormwater, and to describe measures or practices to control these pollutants during project construction.

(4). Stormwater Pollution Prevention Plan requirements. The erosion prevention and sediment control plan component of the SWPPP shall accurately describe the potential for soil erosion and sedimentation problems resulting from land disturbing activity and shall explain and illustrate the measures that are to be taken to control these problems. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and potential for off-site damage. If necessary, the plan shall be phased so that changes to the site during construction that alter drainage patterns or characteristics will be addressed by an appropriate phase of the plan. The plan shall be sealed by a registered professional engineer or landscape architect licensed in the state of Tennessee. The plan shall also conform to the requirements found in the most current TDEC Erosion Prevention and Sediment Control Handbook, and shall include at least the following:

- (a) Project description - Briefly describe the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required.
- (b) A topographic map with contour intervals of five (5) feet or less showing present conditions and proposed contours resulting from land disturbing activity.
- (c) All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or flood plains.
- (d) A general description of existing land covers. Individual trees and shrubs do not need to be identified.
- (e) Stands of existing trees as they are to be preserved upon project completion, specifying their general location on the property. Differentiation shall be made between existing trees to be preserved, trees to be removed and proposed planted trees. Tree protection measures must be identified, and the diameter of the area involved must also be identified on the plan and shown to scale. Information shall be supplied concerning the proposed destruction of

exceptional and historic trees in setbacks and buffer strips, where they exist. Complete landscape plans may be submitted separately. The plan must include the sequence of implementation for tree protection measures.

- (f) Approximate limits of proposed clearing, grading and filling.
- (g) Approximate flows of existing stormwater leaving any portion of the site.
- (h) A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.
- (i) Location, size and layout of proposed stormwater and sedimentation control improvements.
- (j) Existing and proposed drainage network.
- (k) Proposed drain tile or waterway sizes.
- (l) Approximate flows leaving site after construction and incorporating water run-off mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The plan must address the adequacy of outfalls from the development: when water is concentrated, what is the capacity of waterways, if any, accepting stormwater off-site; and what measures, including infiltration, sheeting into buffers, etc., are going to be used to prevent the scouring of waterways and drainage areas off-site, etc.
- (m) The projected sequence of work represented by the grading, drainage and sedimentation and erosion control plans as related to other major items of construction, beginning with the initiation of excavation and including the construction of any sediment basins or retention/detention facilities or any other structural BMP's.
- (n) Specific remediation measures to prevent erosion and sedimentation run-off. Plans shall include detailed drawings of all control measures used; stabilization measures including vegetation and non-vegetation measures, both temporary and permanent, will be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan.
- (o) Specific details for: the construction of stabilized construction entrance/exits, concrete washouts, and sediment basins for controlling erosion; road access points; eliminating or keeping soil, sediment, and debris on streets and public ways at a level acceptable to the city. Soil, sediment, and debris brought onto streets and public ways must be removed by the end of the work day to the satisfaction of the city. Failure to remove the sediment, soil or debris shall be deemed a violation of this ordinance.
- (p) Proposed structures: location and identification of any proposed additional buildings, structures or development on the site.
- (q) A description of on-site measures to be taken to recharge surface water into the ground water system through runoff reduction practices.
- (r) Specific details for construction waste management. Construction site operators shall control waste such as discarded building materials, concrete truck washout, petroleum products and petroleum related products, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality. When the material is erodible, such as soil, the site must be treated as a construction site.
- (s) The plan shall include detailed drawings of all structural and non-structural controls and stabilization measures which shall be designed to minimize erosion and maximize sediment removal resulting in storm water discharge associated with the two (2) year, twenty-four (24)

hour design storm event as a minimum, either from total rainfall in the designated period or the equivalent intensity as specified on the following website http://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html?bkmrk=tn. These specific details for constructing stabilized construction entrance/exits, concrete washouts, sediment basins for controlling erosion, and road access points should be designed to eliminate or keep soils, sediment, and/or debris to a minimum.

- (t) When land disturbance activities are proposed along 303 (d) listed streams impaired for siltation or a known high quality waterway, the erosion and sediment control plan shall be designed at a minimum to control the discharge of a five (5) year (24) twenty-four hour storm event along with other additional minimum standards outlined in the current Tennessee Construction General Permit.

(5). General design performance criteria for permanent stormwater management: the following performance criteria shall be addressed for permanent stormwater management at all development sites:

- (a) Site design standards for all new and redevelopment require, in combination or alone, management measures that are designed, built and maintained to infiltrate, evapotranspire, harvest and/or use, at a minimum, the first inch of every rainfall event preceded by 72 hours of no measurable precipitation. This first inch of rainfall must be 100% managed with no discharge to surface waters.
- (b) Limitations to the application of runoff reduction requirements include, but are not limited to:
 - (i) Where a potential for introducing pollutants into the groundwater exists, unless pretreatment is provided;
 - (ii) Where pre-existing soil contamination is present in areas subject to contact with infiltrated runoff;
 - (iii) Presence of sinkholes or other karst features.
- (c) Pre-development infiltrative capacity of soils at the site must be taken into account in selection of runoff reduction management measures.
- (d) Incentive Standards for re-developed sites: a 10% reduction in the volume of rainfall to be managed for any of the following types of development. Such credits are additive such that a maximum reduction of 50% of the standard in the paragraph above is possible for a project that meets all 5 criteria:
 - (i) Redevelopment;
 - (ii) Brownfield redevelopment;
 - (iii) High density (>7 units per acre);
 - (iv) Vertical Density, (Floor to Area Ratio (FAR) of 2 or >18 units per acre); and
 - (v) Mixed use and Transit Oriented Development (within ½ mile of transit).
- (e) For projects that cannot meet 100% of the runoff reduction requirement unless subject to the incentive standards, the remainder of the stipulated amount of rainfall must be treated prior to discharge with a technology documented to remove 80% total suspended solids (TSS) unless an alternative provided under this ordinance is approved. The treatment technology must be designed, installed and maintained to continue to meet this

performance standard.

- (f) For projects that cannot meet 100% of the runoff reduction requirements, the City Engineer may allow runoff reduction measures to be implemented at another location within the same USGS 12-digit hydrologic unit code (HUC) as the original project. Off-site mitigation must be a minimum of 1.5 times the amount of water not managed on site. The off-site mitigation location (or alternative location outside the 12-digit HUC) and runoff reduction measures must be approved by the City Engineer. The City Engineer shall identify priority areas within the watershed in which mitigation projects can be completed. The City Engineer must create an inventory of appropriate mitigation projects, and develop appropriate institutional standards and management systems to value, evaluate and track transactions. Mitigation can be used for retrofit or redevelopment projects, but should be avoided in areas of new development.
- (g) To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the most current Erosion Prevention and Sediment Control Handbook.
- (h) Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.
- (i) Stormwater discharges from hot spots may require the application of specific structural BMP's and pollution prevention practices. In addition, stormwater from a hot spot land use may not be infiltrated.

(6). Minimum volume control requirements:

In accordance with Section 18-401 the City Engineer may establish standards to regulate the quantity of stormwater discharged, therefore:

- (a) Stormwater designs shall meet the multi-stage storm frequency storage requirements to control the peak flow rates of stormwater discharge associated with the one (1) year, two (2) year, five (5) year, ten (10) year, and twenty-five (25) year NRCS Type II twenty-four (24) hour design storm frequency and reduce the generation of post construction stormwater runoff to pre-construction levels. These practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.
- (b) Detention of stormwater shall be required if there is a net increase in runoff from the site during a twenty-five (25) year storm event following development (or redevelopment), for sites one acre or larger; or, if the site will contain one-half (1/2) acre or more of impervious area (driveways, parking lots, sidewalks, patios, roofs) following development (or redevelopment). Where a detention pond or retention pond, and related equipment and facilities are designed and intended to provide stormwater management for more than one lot and/or for

more than one property owner, such as is the case for residential and commercial subdivisions, and residential and commercial condominiums, including interval ownership (time-share) tourist housing, then a legally established property owner's association shall have the responsibility of ownership and maintenance of such areas in perpetuity. The maintenance plan and maintenance agreement shall be constructed as provided for in Section 18-406(1)

- (c) If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the City Engineer may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

(7) Permanent Stormwater management plan requirements. The stormwater management plan shall include sufficient information to allow the The City Engineer to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. To accomplish this goal the stormwater management plan shall include the following:

- a. Topographic base map: Topographic base map of the site which extends a minimum of 100 feet beyond the limits of the proposed development and indicates:
 - i. Existing surface water drainage including streams, ponds, culverts, ditches, sink holes, wetlands; and the type, size, elevation, etc., of nearest upstream and downstream drainage structures;
 - ii. Current land use including all existing structures, locations of utilities, roads, and easements;
 - iii. All other existing significant natural and artificial features;
 - iv. Proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading.
- b. Proposed structural BMP's. In instances in which a detention/retention basin is to be employed as a part of the stormwater management system, the outlet structures and pipe from such basins shall be precast reinforced concrete.
- c. Proposed Non-structural BMP's
- d. A written description of the site plan and justification of proposed changes in natural conditions may also be required;

(8) Calculations:

Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in section 18-404(6). These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this ordinance. Such calculations shall include:

- (i) A description of the design storm frequency, duration, and intensity where applicable;
- (ii) Time of concentration;
- (iii) Soil curve numbers or runoff coefficients including assumed soil moisture conditions;
- (iv) Peak runoff rates and total runoff volumes for each watershed area;
- (v) Infiltration rates, where applicable;
- (vi) Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;
- (vii) Flow velocities;
- (viii) Data on the increase in rate and volume of runoff for the design storms; and
- (ix) Documentation of sources for all computation methods and field test results.

- (a) Soils information: If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.

- (9) Maintenance and repair plan: The design and planning of all permanent stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.

(10) Buffer Zone Requirements:

(1) Vegetative buffer

An undisturbed vegetative buffer of thirty (30) feet (as measured from the top-of-bank) shall be maintained adjacent to all free-flowing waters of the state located including bodies of water such as perennial and intermittent streams, rivers, ponds and lakes and wetlands. Buffer width depends on the size of the drainage area. Streams or other waters with drainage areas less than 1 square mile will require buffer widths of 30ft of buffer zone. Streams or other waters with drainage areas greater than 1 square mile will require buffer widths of 60ft minimum.

A 60 ft buffer width has been established for sites that contain or are adjacent to a receiving stream designated as impaired or exceptional waters. This 60ft buffer can be established on an average width basis at a project, as long as the minimum width of the buffer is more than 30 ft at any measured location.

Vegetated, preferably native, water quality buffers protect water bodies by providing structural integrity and canopy, as well as storm water infiltration, filtration and evapotranspiration. Buffer zones are not primary sediment control measures and should not be relied upon as such.

Every effort should be made of construction activities not to take place within the buffer and the buffer should remain in its undisturbed state of vegetation. BMPs providing equivalent protection to a receiving stream as a natural riparian buffer zone may be used at a construction site. Such BMPs shall be designed to be effective in protecting the receiving water from effects of stormwater runoff as a natural riparian zone. A justification for use and a design of equivalent BMPs shall be included in the SWPPP. Such equivalent BMPs are expected to be routinely used at a construction project typically located adjacent to surface waters. These projects include, but are not limited to: sewer line construction, Roadway construction, utility line or equipment installation, greenway construction, construction of a permanent outfall or a velocity dissipating structure, etc. Enhancements, restoration and re-establishment may be allowed with proper permit(s).

Variance - The City of Sevierville may allow a variance to the water quality buffer requirements. When a variance is allowed by the City, mitigation must be at least as protective of the natural resources and the environment as the undisturbed buffer. A determination that standards cannot be met may not be based solely on the difficulty or cost associated with implementation.

If it is infeasible to provide an undisturbed naturally vegetated buffer of any size between the disturbed portion of the site and any waters of the state, sediment and erosion controls certified by a TN licensed professional engineer to achieve the equivalent sediment load reduction as an undisturbed naturally vegetated, 30-foot buffer may be implemented on approval by the City Engineer.

Note: If pre-existing development on the site has resulted in significant disturbances within the 30-foot buffer (for example, sites where all vegetation in the 30-foot buffer area has been removed and replaced with impervious surfaces as a result of prior development), the site is exempt from complying with the buffer requirements as long as the area of encroachment is not extended.

18-405. Management of Permanent stormwater systems: operation, maintenance, and inspection.

- (1) As built plans. All applicants are required to submit actual as built plans for any structures located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be sealed by a registered professional engineer licensed to practice in Tennessee. A final inspection by the city is required before any performance security or performance bond will be released. The city shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or performance bond on the completion of various stages of development. In addition, occupation permits shall not be granted until corrections to all BMP's have been made and accepted by the city.

(2) Landscaping and stabilization requirements.

(a) Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall stabilize. Stabilization measures shall be initiated as soon as possible in portions of the site where construction activities have temporarily or permanently ceased. Temporary or permanent soil stabilization at the construction site (or a phase of the project) must be completed no later than 15 days (7 days for steep slopes) after the construction activity in that portion of the site has temporarily or permanently ceased. In the following situations, temporary stabilization measures are not required:

- (i) where the initiation of stabilization measures is precluded by snow cover or frozen ground conditions or adverse soggy ground conditions, stabilization measures shall be initiated as soon as practicable; or
- (ii) where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within 15 days.

Permanent stabilization with perennial vegetation (using native herbaceous and woody plants where practicable) or other permanently stable, non-eroding surface shall replace any temporary measures as soon as practicable. Unpacked gravel containing fines (silt and clay sized particles) or crusher runs will not be considered a non-eroding surface.

The following criteria shall apply to revegetation efforts:

- (i) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.
 - (ii) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.
 - (iii) Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.
 - (iv) In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.
- (3) Inspection of stormwater management facilities. Periodic inspections of facilities shall be performed, documented, and reported in accordance with this chapter, as detailed in Section 18-406(3).

- (4) Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at least three (3) years. These records shall be made available to the city during inspection of the facility and at other reasonable times upon request.
- (5) Failure to meet or maintain design or maintenance standards. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this chapter, the city, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the city shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the city may take necessary corrective action. The cost of any action by the city under this section shall be charged to the responsible party.

18-406. Existing locations and ongoing developments.

- (1) On-site stormwater management facilities maintenance agreement:
 - (a) Where the stormwater facility is located on property that is subject to a development agreement, and the development agreement provides for a permanent stormwater maintenance agreement that runs with the land, the owners of property must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owners and all subsequent property owners and their lessees and assigns, including but not limited to, homeowner associations or other groups or entities.
 - (b) The maintenance agreement shall:
 - (1) Assign responsibility for the maintenance and repair of the stormwater facility to the owners of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.
 - (2) Provide for a periodic inspection by the property owners in accordance with the requirements below for the purpose of documenting maintenance and repair needs and to ensure compliance with the requirements of this ordinance. The property owners will arrange for this inspection to be conducted by a registered professional engineer licensed to practice in the State of Tennessee, who will submit a signed written report of the inspection to the City of Sevierville. It shall also grant permission to the city to enter the property at reasonable times and to inspect the stormwater facility to ensure that it is being properly maintained.
 - (3) Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, cutting and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other stormwater facilities. It shall also provide

that the property owners shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the MS4 BMP manual.

- (4) Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the City of Sevierville.
 - (5) Provide that if the property is not maintained or repaired within the prescribed schedule, the City of Sevierville shall perform the maintenance and repair at its expense, and bill the same to the property owner. The maintenance agreement shall also provide that the City of Sevierville's cost of performing the maintenance shall be a lien against the property.
- (2) Existing problem locations – no maintenance agreement.
- (a) The City of Sevierville shall in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problems affecting or caused by such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance. Discharges from existing BMP's that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit.
 - (b) Inspection of existing facilities. The city may, to the extent authorized by state and federal law, enter and inspect private property for the purpose of determining if there are illicit non-stormwater discharges, and to establish inspection programs to verify that all stormwater management facilities are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the city's NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMP's.
- (3) Owner/Operator Inspections - generally. The owners and/or the operators of stormwater management practices shall:
- (a) Perform routine inspections to ensure that the BMP's are properly functioning. These inspections shall be conducted on an annual basis, at a minimum. These inspections shall be conducted by a person familiar with control measures implemented at a site. Owners or operators shall maintain documentation of these inspections. The City of Sevierville may require submittal of this documentation.
 - (b) Perform comprehensive inspection of all stormwater management facilities and practices. These inspections shall be conducted once every five years, at a minimum. Such inspections must be conducted by either a professional engineer or landscape architect, licensed in the State of Tennessee. Complete inspection reports for these five year inspections shall include:
 - (i) Facility type,
 - (ii) Inspection date,

- (iii) Latitude and longitude and nearest street address,
 - (iv) BMP owner information (e.g. name, address, phone number, fax, and email),
 - (v) A description of BMP condition including: vegetation and soils; inlet and outlet channels and structures; embankments, slopes, and safety benches; spillways, weirs, and other control structures; and any sediment and debris accumulation,
 - (vi) Photographic documentation of BMP's, and
 - (vii) Specific maintenance items or violations that need to be corrected by the BMP owner along with deadlines and reinspection dates
- (c) Owners or operators shall maintain documentation of these inspections. The City of Sevierville may require submittal of this documentation.
- (4) Corrections of problems subject to appeal. Corrective measures imposed by the City of Sevierville under this section are subject to appeal under section 18-410 of this chapter.

18-407. Illicit discharges.

- (1) Scope. This section shall apply to all water generated on developed or undeveloped land entering the city's separate storm sewer system.
- (2) Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater or any discharge that flows from a stormwater facility that is not inspected in accordance with section 14-406 shall be an illicit discharge. Non-stormwater discharges shall include, but shall not be limited to, sanitary wastewater, car wash wastewater, radiator flushing disposal, spills from roadway accidents, carpet cleaning wastewater, effluent from septic tanks, improper oil disposal, laundry wastewater/gray water, improper disposal of auto and household toxics. The commencement, conduct or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited except as described as follows:
- (a) Uncontaminated discharges from the following sources:
 - (i) Water line flushing or other potable water sources;
 - (ii) Landscape irrigation or lawn watering with potable water;
 - (iii) Diverted stream flows;
 - (iv) Rising ground water;
 - (v) Groundwater infiltration to storm drains;
 - (vi) Pumped groundwater;
 - (vii) Foundation or footing drains;
 - (viii) Crawl space pumps;
 - (ix) Air conditioning condensation;
 - (x) Springs;
 - (xi) Non-commercial washing of vehicles;
 - (xii) Natural riparian habitat or wetland flows;
 - (xiii) Swimming pools (if dechlorinated - typically less than one PPM chlorine);
 - (xiv) Firefighting activities;
 - (xv) Any other uncontaminated water source.
 - (b) Discharges specified in writing by the city as being necessary to protect public health and safety.

- (c) Dye testing is an allowable discharge if the city has so specified in writing.
- (d) Discharges authorized by the Construction General Permit (CGP), which comply with Section 3.5.9 of the same:
 - (i) dewatering of work areas of collected stormwater and ground water (filtering or chemical treatment may be necessary prior to discharge);
 - (ii) waters used to wash vehicles (of dust and soil, not process materials such as oils, asphalt or concrete) where detergents are not used and detention and/or filtering is provided before the water leaves site;
 - (iii) water used to control dust in accordance with CGP section 3.5.5;
 - (iv) potable water sources including waterline flushings from which chlorine has been removed to the maximum extent practicable;
 - (v) routine external building washdown that does not use detergents or other chemicals;
 - (vi) uncontaminated groundwater or spring water; and
 - (vii) foundation or footing drains where flows are not contaminated with pollutants (process materials such as solvents, heavy metals, etc.).
- (3) Prohibition of illicit connections. The construction, use, maintenance or continued existence of illicit connections to the municipal separate storm sewer system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (4) Reduction of stormwater pollutants by the use of best management practices. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMP's necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. Discharges from existing BMP's that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit.
- (5) Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into, the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the city in person or by telephone, fax, or email, no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the city within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

- (6) No illegal dumping allowed. No person shall dump or otherwise deposit outside an authorized landfill, convenience center or other authorized garbage or trash collection point, any trash or garbage of any kind or description on any private or public property, occupied or unoccupied, inside the city.

18-408. Enforcement.

- (1) Enforcement authority. The City of Sevierville shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this section. Measures authorized include:
- (a) Verbal Warnings – At minimum, verbal warnings must specify the nature of the violation and required corrective action.
 - (b) Written Notices – Written notices must stipulate the nature of the violation and the required corrective action, with deadlines for taking such action.
 - (c) Citations with Administrative Penalties – The City Engineer has the authority to assess monetary penalties, which may include civil and administrative penalties.
 - (d) Stop Work Orders – Stop work orders that require construction activities to be halted, except for those activities directed at cleaning up, abating discharge, and installing appropriate control measures.
 - (e) Withholding of Plan Approvals or Other Authorizations – Where a facility is in noncompliance, the City Engineer's own approval process affecting the facility's ability to discharge to the MS4 can be used to abate the violation.
 - (f) Additional Measures – The City Engineer may also use other escalated measures provided under local legal authorities. The City Engineer may perform work necessary to improve erosion control measures and collect the funds from the responsible party in an appropriate manner, such as collecting against the project's bond or directly billing the responsible party to pay for work and materials.
- (2) Notification of violation:
- (a) Verbal warning. Verbal warning may be given at the discretion of the inspector when it appears the condition can be corrected by the violator within a reasonable time, which time shall be approved by the inspector.
 - (b) Written notice. Whenever the City of Sevierville finds that any permittee or any other person discharging stormwater has violated or is violating this ordinance or a permit or order issued hereunder, the City of Sevierville may serve upon such person written notice of the violation. Within ten (10) days of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the City of Sevierville. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.
 - (c) Consent orders. The City of Sevierville is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as

administrative orders issued pursuant to paragraphs (d) and (e) below.

(d) Show cause hearing. The City of Sevierville may order any person who violates this chapter or permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.

(e) Compliance order. When the City of Sevierville finds that any person has violated or continues to violate this chapter or a permit or order issued thereunder, the City of Sevierville may issue an order to the violator directing that, following a specific time period, adequate structures or devices be installed and/or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.

(f) Cease and desist and stop work orders. When the City of Sevierville finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder, the City of Sevierville may issue a stop work order or an order to cease and desist all such violations and direct those persons in noncompliance to:

- (i) Comply forthwith; or
- (ii) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation; including halting operations except for terminating the discharge and installing appropriate control measures.

(g) Suspension, revocation or modification of permit. The City of Sevierville may suspend, revoke or modify the permit authorizing the land development project or any other project of the applicant or other responsible person within the city. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated upon such conditions as the City of Sevierville may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

(h) Conflicting standards. Whenever there is a conflict between any standard contained in this chapter and in the BMP manual adopted by the city under this ordinance, the strictest standard shall prevail.

18-409. Penalties.

- (1) Violations. Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the City of Sevierville, shall be guilty of a civil offense.

- (2) Penalties. Under the authority provided in Tennessee Code Annotated § 68-221-1106, the city declares that any person violating the provisions of this chapter may be assessed a civil penalty by the City of Sevierville not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.
- (3) Measuring civil penalties. In assessing a civil penalty, the City of Sevierville may consider:
- (a) The harm done to the public health or the environment;
 - (b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
 - (c) The economic benefit gained by the violator;
 - (d) The amount of effort put forth by the violator to remedy this violation;
 - (e) Any unusual or extraordinary enforcement costs incurred by the city;
 - (f) The amount of penalty established by ordinance or resolution for specific categories of violations; and
 - (g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.
- (4) Recovery of damages and costs. In addition to the civil penalty in subsection (2) above, the city may recover:
- (a) All damages proximately caused by the violator to the city, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this chapter, or any other actual damages caused by the violation.
 - (b) The costs of the city's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this chapter.

Referral to TDEC. Where the city has used progressive enforcement to achieve compliance with this ordinance, and in the judgment of the city has not been successful, the city may refer the violation to TDEC. For the purposes of this provision, "progressive enforcement" shall mean two (2) follow-up inspections and two (2) warning letters. In addition, enforcement referrals to TDEC must include, at a minimum, the following information:

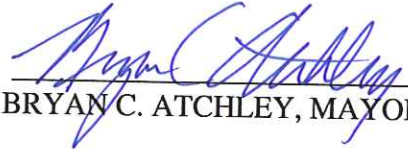
- (c) Construction project or industrial facility location;
 - (d) Name of owner or operator;
 - (e) Estimated construction project or size or type of industrial activity (including SIC code, if known);
 - (f) Records of communications with the owner or operator regarding the violation, including at least two follow-up inspections, two warning letters or notices of violation, and any response from the owner or operator.
- (5) Other remedies. The city may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.
- (6) Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted.

18-410. Appeals. Pursuant to Tennessee Code Annotated § 68-221-1106(d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this chapter may appeal said penalty or damage assessment to the city's Board of Zoning Appeals.

- (1) Appeals to be in writing. The appeal shall be in writing and filed with the municipal recorder or clerk within fifteen (15) days after the civil penalty and/or damage assessment is served in any manner authorized by law.
- (2) Public hearing. Upon receipt of an appeal, the city's Board of Zoning Appeals shall hold a public hearing within thirty (30) days. Ten (10) days prior notice of the time, date, and location of said hearing shall be published in a daily newspaper of general circulation. Ten (10) days' notice by registered mail shall also be provided to the aggrieved party, such notice to be sent to the address provided by the aggrieved party at the time of appeal. The decision of the Board of Zoning Appeals of the city shall be final.
- (3) Appealing decisions of the city's Board of Zoning Appeals. Any alleged violator may appeal a decision of the city's Board of Zoning Appeals pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8.

SECTION 3. This ordinance shall be effective five days from and after its final passage, the public welfare requiring it.

APPROVED:


BRYAN C. ATCHLEY, MAYOR

ATTEST:


LYNN K. MCCLURG, CITY RECORDER

PASSED ON 1ST READING: 09/17/12

PASSED ON 2ND READING: 10/01/12

PASSED ON 3RD READING: 10/15/2012