

ORDINANCE NO. 3542
BEING AN ORDINANCE OF THE CITY COUNCIL OF MORRISTOWN, TENNESSEE AMENDING
TITLE 18 OF THE MORRISTOWN MUNICIPAL CODE.

BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF MORRISTOWN, TENNESSEE, THAT TITLE 18 OF THE MUNICIPAL CODE IS AMENDED AS FOLLOWS:

TITLE 18
WATER & SEWERS

Chapter 4 Water Pollution Control is deleted in its entirety;
Chapter 5 Stormwater Utility Service Charges is deleted in its entirety;
Chapter 6 Land Disturbance is deleted in its entirety;
Chapter 7 Water Quality Buffer Zone is deleted in its entirety;
Chapter 8 Illicit Discharges and Connections to the Municipal Separate Storm Sewer System is deleted in its entirety;
Chapter 9 Post Construction Water Quality Management is deleted in its entirety;
and substituted therefore is the following:

Chapter 4 Stormwater Program Ordinance

STORMWATER PROGRAM ORDINANCE

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Section 1

General Provisions

- (1) Authorization. The City is authorized to regulate and provide for the purposes listed in this Ordinance within the corporate limits of the City of Morristown, Tennessee, pursuant to the authority granted by Section 68-221-1105 of the Tennessee Code Annotated.
- (2) Purpose. It is the purpose of this Ordinance to:
 - (a) Protect, maintain, and enhance the environment of the City of Morristown and the public health, safety and general welfare of the citizens 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, all water resources, lakes, rivers, streams, pond, wetlands, and groundwater;
 - (b) Enable the City to comply with the National Pollution Discharge Elimination System (NPDES) and applicable Federal regulations as set out in 40 CFR 122.26 regarding stormwater discharges;
 - (c) Allow the City to exercise the powers granted in TCA 68-221-1105 and all other appropriate statutes with respect to stormwater facilities;
 - (d) Exercise general regulation over the planning, location, construction, operation and maintenance of all stormwater systems in the City, whether the system is owned and operated by the City or not;
 - (e) Adopt rules and regulations deemed necessary to accomplish the purposes of the Ordinance including fees for service and permits;
 - (f) Establish standards to regulate stormwater contaminants as may be necessary to protect water quality;
 - (g) Establish authority to review and approve plans and plats for stormwater management for development, redevelopment and related land disturbing activities including but not limited to subdivisions and residential, commercial, and industrial development;
 - (h) Establish authority to issue permits for stormwater discharges and for the construction, alteration, extension and maintenance of stormwater facilities;
 - (i) Establish authority to suspend or revoke permits when it is determined that the permittee has violated any provision in this Ordinance or provision of the permit;

- (j) Regulate and prohibit discharges into stormwater facilities of sanitary, industrial or commercial sewage or waters that have otherwise been contaminated; and
 - (k) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination whether public or private.
- (3) Administering entity. The City shall administer the provisions of this Ordinance through its Stormwater Program under the direction of the City Administrator or designee. The operating mechanism for the Stormwater Program is defined by the Stormwater Program Standard Operating Procedures, as amended, current edition, as maintained by the City Administrator or designee. The City Administrator or designee is authorized to enforce this Ordinance and to use its judgment in interpreting the various provisions of this Ordinance, and the Stormwater Program Standard Operating Procedures to ensure that the City's goals are accomplished.
- (4) Conflict and responsibility. This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, deed restrictions, or existing ordinances and regulations.
- (a) If any provisions of this ordinance and any other provisions of law, regulations, or policy impose overlapping or contradictory regulations, or contain any restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards or requirements shall govern.
 - (b) Conformance with this ordinance is a minimum requirement and does not relieve the property owner, utility, facility operator, lessee, tenant, contractor, the equipment operator and/or any other person or entity doing work from applying sound judgment and taking measures which go beyond the scope of the requirements of this ordinance where necessary.
 - (c) This ordinance does not imply a warranty or the assumption of responsibility on the part of the city for the suitability, fitness, or safety of any structure with respect to flooding, water quality, or structural integrity. This ordinance is a regulatory instrument only, and is not to be interpreted as an undertaking by the city to design any structure or facility.
 - (d) Neither the approval of a discharge under this ordinance, nor compliance with the conditions of such approval, shall relieve any person of responsibility for damage to other persons or property or impose any liability upon the city for damage to other persons or property.
- (5) Overlapping Jurisdiction. The State of Tennessee, working through the Tennessee Department of Environment and Conservation (TDEC), is or may be required by federal

regulations to address stormwater pollution issues in ways which appear to overlap the goals and requirements of the Program described by this Ordinance. Where such overlaps occur and where TDEC's regulations and determinations are more restrictive, the TDEC regulations and determinations shall control. A requirement to comply with TDEC regulations and determinations shall not, in any way, relieve any party from complying with the provisions of this Ordinance.

- (6) Severability. Each separate provision of this ordinance is deemed independent of all other provisions herein so that if any provision or provision of this ordinance shall be declared invalid, all other provisions thereof shall remain enforceable.
- (7) Rules applying to Ordinance. For the purpose of this ordinance, certain rules of construction shall apply as follows:
 - (a) Words used in the singular shall include the plural, and the plural shall include the singular.
 - (b) Words used in the present tense shall include the future tense.
 - (c) The words "shall" and "will" are mandatory and not discretionary. The word "may" is permissive.
 - (d) Words not defined in this ordinance shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary
- (8) Right of Entry. The City shall make inspections and investigations, carry on research or take on such other actions as may be necessary to carry out the administration of these regulations and 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 Ordinance, pursuant to TCA 69-3-107 (5) and (6).
- (9) Jurisdiction. The City shall administer the provisions of this Ordinance on all property inside the municipal boundaries of the City of Morristown.

Section 2

Definitions

For the purpose of this Ordinance the definitions set out below shall apply.

- (1) **303(d) list**. Refer to Impaired Waters.

- (2) **As built plans.** Drawings sealed by an engineer and/or surveyor depicting conditions as they were actually constructed.
- (3) **Administrative or Civil Penalties.** Under the authority provided in Tennessee Code Annotated §68-221-1106, the City declares that any person violating the provisions of this Ordinance may be assessed a civil penalty by the City of 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.
- (4) **Best Management Practices (BMPs).** The schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of stormwater runoff. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
- (5) **BMP Manual(s).** Any text, included in the Stormwater Program Standard Operating Procedures, as amended, current edition, used for technical guidance by the Stormwater Program which includes additional policies, criteria, guidelines and information for the proper implementation of the requirements of the City.
- (6) **Channel.** A natural or artificial watercourse with a definite bed and bank that conducts flowing water continuously or periodically.
- (7) **City.** The City of Morristown, Tennessee.
- (8) **City Administrator or designee.** The person designated by the City of Morristown to lead the stormwater program.
- (9) **Clean Water Act.** A U.S. federal law that regulates the discharge of pollutants into the nation's surface waters, including lakes, rivers, streams, wetlands, and coastal areas.
- (10) **Clearing.** This activity refers to removal of vegetation and disturbance of soil prior to grading or excavation in anticipation of construction activities and wide area land disturbance in anticipation of non-construction activities such as the clearing of forested land in order to convert forestland to pasture for wildlife management purposes.
- (11) **Climax Successional Vegetation** - The native plant community that would be established on a site if all successional sequences were completed without interferences by man under the present environmental conditions. Natural disturbances are inherent in its development.
- (12) **Commencement of construction.** The initial disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.

- (13) **Common plan of development or sale.** This term is broadly defined as 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, survey markings, etc.) indicating construction activities may occur on a specific plot. A common plan of development or sale 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.
- (14) **Construction.** Any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises.
- (15) **Construction General Permit (CGP).** The common name used in reference to the State of Tennessee General NPDES Permit for Discharges of Stormwater Associated with Construction Activities, latest edition, as amended.
- (16) **Construction Site Operator.** For the purpose of this Ordinance and in the context of stormwater associated with construction activity, means any person associated with a construction project that meets either of the following two criteria:
- (a) This person has operational or design control over construction plans and specifications, including the ability to make modifications to those plans and specifications. This person is typically the owner or developer of the project or a portion of the project; or
 - (b) This person has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a SWPPP for the site or other permit conditions. This person is typically a contractor or a commercial builder who is hired by the owner or developer;
 - (c) It is anticipated that at different phases of a construction project, different types of parties may satisfy the definition of the “construction site operator.”
- (17) **Contaminant.** Any physical, chemical, biological, or radiological substance or matter in water.
- (18) **Control Measure.** As used in this Ordinance, refers to any Best Management Practice or other method used to prevent or reduce the discharge of pollutants to Waters of the State.
- (19) **Customers of the stormwater utility.** All persons, properties, and entities served by and/or benefiting from the utility's acquisition, management, maintenance, extension,

and improvement of the stormwater management programs, systems, and facilities and regulation of public and private stormwater systems, facilities, and activities related thereto, and persons, properties, and entities which will ultimately be served as a result of the stormwater management program.

- (20) **Design storm event.** A mathematical representation of a precipitation event that reflects conditions in a given area for the design of a stormwater systems, facilities and infrastructure.
- (21) **Development.** The alteration of undeveloped land that disturbs more than 2400 square feet or increases the impervious area through construction and land disturbing activities including but not limited to, buildings or other structures, mining, dredging, clearing, grubbing, filling, grading, paving, excavating, drilling operations, and temporary or permanent storage of materials.
- (22) **Developed land.** Property altered from a natural state by construction or land disturbing activities.
- (23) **Discharge.** When used without a qualifier, refers to “discharge of a pollutant” as defined at 40 CFR §122.2; otherwise to 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 non-stormwater solid or liquid matter into the municipal separate storm sewer system.
- (24) **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.
- (25) **Ecological Integrity.** The quality of a natural unmanaged or managed ecosystem in which the natural ecological processes are sustained, with species diversity and ecosystem diversity assured for the future.
- (26) **Engineer.** A person registered with the Tennessee Board of Architectural and Engineering Examiners and licensed to practice engineering in the state of Tennessee.
- (27) **Equivalent residential unit (ERU).** The median impervious coverage of detached dwelling unit properties in the city as determined by the city. Two thousand four hundred (2,400) square feet of impervious area shall be one (1) equivalent residential unit (ERU).
- (28) **Erosion.** The removal of soil particles by the action of water, wind, ice or other meteorological events, whether naturally occurring or acting in conjunction with or promoted by human activities or effects.

- (29) **Erosion Prevention.** Practices implemented to prevent, through vegetating, shielding, binding, or other mechanism(s), the suspension of soil particles.
- (30) **Erosion Prevention and Sediment Control Plan (EPSC Plan).** The drawings, specifications and other graphic representations for the site specific design of erosion prevention and sediment control best management practices that are intended to minimize the erosion and sediment runoff at a site during construction that are to be used during construction for the installation and implementation of the BMP's.
- (31) **Exceptional Tennessee Waters (ETW).** Surface waters of the State of Tennessee that satisfy the characteristics as listed in Rule 1200-4-3-.06 of the official compilation - rules and regulations of the State of Tennessee. Characteristics include waters within state or national parks, wildlife refuges, wilderness or natural areas; State or Federal Scenic Rivers; Federally designated critical habitat; waters within an areas designated as Lands Unsuitable for Mining; waters with naturally reproducing trout; waters with exceptional biological diversity or; other waters with outstanding ecological or recreational value as determined by the Tennessee Department of Environment and Conservation.
- (32) **Fully Completed Application.** The completed, signed application form accompanied by the appropriate permit fee and the required items indicated on the application form.
- (33) **Green Infrastructure.** The interconnected network of natural areas, open spaces and green infrastructure practices intended to infiltrate, evapotranspire, harvest and/or use rainwater though the use of natural hydrologic features that conserves natural ecosystem values and functions, sustains clean air and water, and provides environmental and community benefits.
- (34) **Green Infrastructure Practices (GIPs).** Individual or networked management measures that are designed, built and maintained to infiltrate, evapotranspire, harvest and/or use rainwater though the use of natural hydrologic features.
- (35) **Greenways.** Linear undeveloped areas linking various types of development by such facilities as bicycle paths, footpaths, and bridle paths. Greenways are usually kept in their natural state except for the pathway and areas immediately adjacent to the pathway.
- (36) **Hazardous material.** Material defined as a hazardous material under U.S. Department of Transportation regulations.
- (37) **Hotspot.** 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 and activities:

- (a) Salvage yards and recycling facilities;
 - (b) Vehicle service and maintenance facilities including but not limited to vehicle, truck or equipment maintenance, fueling, washing or storage areas, gas stations, automotive dealerships, automotive repair shops, and car wash facilities;
 - (c) Large impervious surfaces, such as large parking lots, driveway, drive aisles and roofs.
 - (d) Fleet storage areas (bus, truck, etc.);
 - (e) Industrial sites (included on EPA 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) Commercial facilities with outside animal housing areas including animal shelters, fish hatcheries, kennels, livestock stables, veterinary clinics, or zoos;
 - (l) Other land uses and activities as designated by the City Administrator or designee using information gathered through investigation, research, notification by regulatory agency, engineering analysis or scientific study.
- (38) **Industrial waste.** Liquid or other waste resulting from any process of industry, manufacturer, trade or business or from the development of any natural resources.
- (39) **Inflow.** Stormwater that enters into sanitary sewer systems at points of direct connection to the systems.
- (40) **Illicit Connections.** Illegal and/or unauthorized connections to the Municipal Separate Storm Sewer System (MS4) whether or not such connection result in discharges into that system.
- (41) **Illicit Discharge.** Defined at 40 CFR §122.26(b)(2) and refers to any discharge to a Municipal Separate Storm Sewer System (MS4) that is not entirely composed of stormwater, except discharges authorized under an NPDES permit (other than the

NPDES permit for discharges from the MS4) and discharges resulting from firefighting activities.

- (42) **Impaired Waters.** Any segment of surface waters that has been identified by the Tennessee Department of Environment and Conservation (TDEC) as failing to support classified uses. The TDEC periodically compiles a list of such waters known as the “303(d) List”.
- (43) **Impervious surfaces** A term generally applied to any ground or structural surface that water cannot penetrate or through which water penetrates with great difficulty and being further defined as those polygonal features that significantly (but not absolutely) prevent the draining of stormwater into the ground. Typically, these features include but are not limited to: buildings, building foundations, storage tanks, parking lots, roads, driveways, runways, taxiways, aprons, hardened athletic courts, patios, decks, travel ways, parking and other areas comprised of gravel or un-vegetated soils, sidewalks (concrete or asphalt), concrete slabs surrounding swimming pools, or any other hardened surface consisting of concrete, asphalt, or other impervious material.
- (44) **Inspection and Maintenance Agreement (I&M Agreement).** A legally recorded document which acts as a property deed restriction and which provide for long-term maintenance of stormwater management practices.
- (45) **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. An inspector may also have the following responsibilities:
- (a) Oversee the requirements of other construction-related permits, such as Aquatic Resources Alteration Permit (ARAP) or Corps of Engineers permit for construction activities in or around Waters of the State ;
 - (b) Update field SWPPPs;
 - (c) Conducts pre-construction inspection to verify that undisturbed areas have been properly marked and initial measures have been installed; and
 - (d) Inform the permit holder of activities that may be necessary to gain or remain in compliance with the Construction General Permit (CGP) and other environmental permits.

- (e) Conducts post construction inspections for the purposes of verification of final stabilization, permanent vegetation and as-built stormwater management facilities.
- (46) **Invasive Exotic Plants.** Plants that have been introduced from other regions and compete so successfully against native plants that they can crowd out their competitors, thus providing a monoculture that discourages the growth of native plant species.
- (47) **Land Disturbance 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, tree removal, and alterations of water quality buffer zones, alterations to water resources, grubbing, grading, filling, and excavation.
- (48) **Landscape Architect.** A person registered with the Tennessee Board of Architectural and Engineering Examiners and licensed to practice landscape architecture in the state of Tennessee.
- (49) **Maintenance.** Any activity that is necessary to keep a stormwater facility or system in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility or system if reconstruction is needed in order to restore it to the original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the function of the stormwater facility or system.
- (50) **Multiple dwelling unit residential properties.** Developed land whereon three (3) or more attached residential dwelling units are located. Multiple dwelling unit residential properties shall include, but not be limited to, apartment houses, condominiums, townhomes, attached single-family homes, boarding houses, group homes, hotels and motels, retirement centers, multiple duplexes located on a single parcel of land, and other structures in which three (3) or more family groups commonly and normally reside or could reside.
- (51) **Municipal Separate Storm Sewer System (MS4).** Defined at 40 CFR §122.26(b) (8) and means the conveyances or system of conveyances for the collection and transportation of stormwater, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, or storm drains that are:
 - (a) Owned or operated by federal, state, city, town, borough, parish, district, association, municipality or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer

district, flood control district or drainage district, or similar entity, or a designated and approved management agency under section 208 of the CWA that discharges to Waters of the State;

- (b) Designed or used for collecting or conveying stormwater;
 - (c) which is not a combined sewer; and
 - (d) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR §122.2.
- (52) **Municipality.** As used herein refers to City of Morristown, Tennessee, a City and political subdivision of the State of Tennessee.
- (53) **National Pollutant Discharge Elimination System or (NPDES) permit.** The national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of the federal CWA. The term includes an "approved program."
- (54) **Native Vegetation.** The normal vegetation that grows or would reestablish normally after a disturbance. This does not include Invasive Exotic Plants.
- (55) **Notice of Intent (NOI).** The mechanism used to "register" for coverage under a general permit from the Tennessee Department of Environment and Conservation (TDEC).
- (56) **Organization.** A corporation, government, government subdivision or agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.
- (57) **Other developed land.** Other developed land shall mean, but shall not be limited to, multiple dwelling unit residential properties as defined in this ordinance, manufactured home and mobile home parks, commercial and office buildings, public buildings and structures, industrial and manufacturing buildings, storage buildings and storage areas covered with impervious surfaces, parking lots, parks, recreation properties, public and private schools and universities, research stations, hospitals and convalescent centers, airports, agricultural uses covered by impervious surfaces, water reservoirs, and water and wastewater treatment plants.
- (58) **Person or Owner.** Any individual, firm or association and any public or private corporation or entity organized or existing under the laws of this or any other state, and includes the plural i.e. "owner" and "owners" are interchangeable.
- (59) **Pollutant.** Sewage, industrial waste, or other waste or materials, whether liquid or solid.

- (60) **Qualified Hydrologic Professional.** Persons meeting the minimum qualifications set forth in Rules of the Tennessee Department of Environment and Conservation Division of Water Resources Chapter 0400-40-17.01 and successfully completing the TN-HDT course and course exam and are certified and as designated by TDEC as a Tennessee Qualified Hydrologic Professional (TN-QHP), as amended, latest edition.
- (61) **Redevelopment.** The alteration of developed land that disturbs more than 2400 square feet and increases the existing site or building impervious footprint by more than 2400 square feet, or offers a new opportunity for stormwater controls. The term is not intended to include such activities as exterior remodeling, which would not be expected to cause adverse stormwater quality impacts.
- (62) **Responsible Party.** Owners and/or occupants of property within the City who are subject to penalty in case of default.
- (63) **Riparian Zone.** The area adjacent to a water resource with a differing density, diversity, and productivity of plant and animal species relative to nearby uplands. This area provides a transition from an aquatic ecosystem to a terrestrial ecosystem.
- (64) **Runoff.** The portion of the precipitation on a drainage area that is discharged from the area to downstream areas. Also see stormwater runoff.
- (65) **Runoff Reduction (RR).** An approach to permanent stormwater management that uses avoidance and minimizing design approaches as well as infiltration-based control measures to reduce the amount of impervious surface runoff.
- (66) **Runoff Reduction Method (RRM).** A method of applying site design practices to minimize impervious cover, grading, and loss of forest cover and applying runoff reduction (RR) to permanent stormwater management to reduce post-development runoff volumes.
- (67) **Runoff Reduction Volume (RRV).** A computed volume of runoff, or equivalent metric, used for the design, sizing, and construction specification of Green Infrastructure, BMP's, GIP's, Stormwater Management Facilities, and related post construction stormwater controls.
- (68) **Sanitary sewer.** A system of underground conduits that collect and deliver sanitary wastewater to a wastewater treatment plant.
- (69) **Sanitary wastewater.** Water that has been used and contains dissolved or suspended waste materials and which may originate from domestic, residential, industrial, commercial or agricultural activities, sewer inflow, and sewer infiltration within the jurisdictional limits of the City of Morristown.

(70) **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.

(71) **Sediment Control.** Practices implemented to manage through filtering, settling, screening or other mechanism(s) to remove suspended particles (soil, organic or mineral) from water.

(72) **Sedimentation.** Process of deposition of a solid material from a state of suspension in fluid, usually air or water.

(73) **Single family residential detached dwelling unit.**

(a) Developed land containing one structure which is not attached to another dwelling and which contains one or more rooms with a bathroom and kitchen facilities designed for occupancy by one family; or,

(b) A single duplex structure located on a single parcel of land or a single duplex structure where each half of the duplex is located on a single parcel of land.

(i.) Single family residential detached dwelling units may include houses, manufactured homes, and mobile homes located on one or more individual lots or parcels of land.

(ii.) Developed land may be classified as a single family residential detached dwelling despite the presence of incidental structures associated with residential uses such as garages, carports, or small storage buildings. Single family residential detached dwelling units can also include developed land that has a non-residential use of a single dwelling unit or duplex designed for occupancy for one or two families so long as such use does not result in additional impervious areas, such as parking spaces, impervious surfaced playgrounds, or structures or additions to the building which are used as offices, storage facilities, meeting rooms, classrooms, houses of worship, or similar non-residential uses that are not normally associated with single family or duplex residential housing.

(iii.) Single family residential detached dwelling unit shall not include developed land containing: manufactured homes and mobile homes located within manufactured home or mobile home parks where the land is owned by others than the owners of the manufactured homes or mobile homes; multiple duplexes located on a single parcel of land; or multiple-unit residential properties having three or more attached residential dwelling units.

- (74) **Sinkhole.** A naturally occurring depression where drainage collects in the earth's surface that is a minimum of two feet (2') deep or; A hole, fissure or other opening in the ground, often underlain with limestone, dolomite or other rock formation that provides for and is being designated as a natural conduit for the passage of stormwater.
- (75) **Soil reports.** 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 Soil Scientist who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees.
- (76) **Special Pollution Abatement Plan (SPAP).** A SPAP is a detailed plan that outlines the implementation of best management practices, stormwater management practices, controls and facilities that will be implemented in order to protect water quality after development or redevelopment is complete.
- (77) **Stabilization.** Providing adequate measures, vegetative or structural, that will prevent erosion from occurring.
- (78) **Steep Slope.** A natural or created slope of 35% grade or greater. Designers of sites with steep slopes must pay attention to stormwater management in the SWPPP to direct runoff non-erosively 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.
- (79) **Stormwater.** Is defined at 40 CFR §122.26(b) (13) and means runoff from rain events, snowmelt runoff, and surface runoff and drainage.
- (80) **Stormwater Control Measures.** Stormwater Control Measure (SCM) – Measures, such as BMP's, GIP's, and stormwater management facilities meant to directly affect the flow of stormwater and/or contaminants, and that have defined specifications and standards. These measures have one or both of two parts:
- (a) a defined surface management to encourage infiltration and contaminant removal and/or;
 - (b) a clear Protocol defining engineering design, installation, and maintenance. A measure such as a "good forest" has just a Management, a Measure such as a manufactured stormwater treatment device has just an engineering Protocol, and a "bio retention cell" has both.
 - (c) See also Best Management Practices, Green Infrastructure, Stormwater Management Facility and GIP's.

- (81) **Stormwater Management.** The practices, strategies, and controls used to maintain the quality and quantity of stormwater runoff at pre-development levels.
- (82) **Stormwater management facility.** A manmade structure either privately or publicly owned, for which the partial or full purpose or use is to retain and control the quality and/or quantity of stormwater runoff.
- (83) **Stormwater Management Plan (SWMP).** The set of drawings and other documents including but not limited to water quality management plans, special pollution abatement plans, construction plans, post construction plans, runoff reduction analysis, hydrologic analysis, hydraulic analysis and design specifications that comprise all the information for the design, construction, inspection and maintenance of the practices, strategies, controls, for construction and post construction management including but not limited to drainage systems, conveyances, structures, BMPs, green infrastructure practices, stormwater control measures, concepts and techniques intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels.
- (84) **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 as provided in the ESPC Plan and in accordance with the Tennessee Erosion and Sediment Control Handbook or Stormwater Program Standard Operating Procedures, whichever is more stringent and protective of waters of the state.
- (85) **Stormwater Program.** Refers to the Program created by City of Morristown and the City Administrator to administer the provisions of this Ordinance and to manage the quantity and quality of stormwater discharged in or from the City's municipal separate storm sewer system (MS4).
- (86) **Stormwater Program Cost.** Refers to any monetary cost incurred by the Stormwater Program in order to fulfill the responsibilities and duties assigned to the Program under this Ordinance. Program costs specifically include costs incurred by the City for actions performed on behalf of or at the request of the Program.
- (87) **Stormwater Program Standard Operating Procedures.** Standing procedures developed and maintained by the City Administrator or designee to be followed in carrying out the operation, management and maintenance of the municipal separate stormwater sewer system.
- (88) **Stormwater Program Service Area.** The entire physical area within the corporate limits of the City of Morristown.
- (89) **Stormwater Program Staff.** The group of people hired to assist the City Administrator in carrying out the duties of the Stormwater Program.

- (90) **Stormwater Runoff.** The flow on the surface of the ground resulting from precipitation.
- (91) **Stormwater service charge or "stormwater utility service charge".** The stormwater management service charge or charges applicable to a parcel of developed land, which charge shall be reflective of the City of Morristown stormwater utility's cost of providing stormwater management services and facilities.
- (92) **Stormwater system.** The system of drainage, curbs and gutters, curb inlets, swales, catch basins, manholes, gutters, ditches, pipes, lakes, ponds, sinkholes, channels, creeks, streams, storm drains, and similar conveyances and facilities, both natural and manmade, located within the city which are designated or used for collecting, storing, or conveying stormwater, or through which stormwater is collected, stored or conveyed, whether owned or operated by the City of Morristown or another entity, person or operator.
- (93) **Stormwater Violations Appeals Board** – A board appointed by the City Council to hold hearings upon appeals from enforcement orders or actions of the Stormwater Program, or City Administrator or designee.
- (94) **Stream.** Surface water that is not a wet weather conveyance.
- (95) **Structural BMPs.** The devices that are constructed to provide control of stormwater runoff.
- (96) **Surface water.** Water upon the surface of the earth in bounds created naturally or artificially including, but not limited to, water resources, streams, other water courses, lakes and reservoirs.
- (97) **Surveyor.** A person registered with the Tennessee Board of Examiners for Land Surveyors and licensed to practice surveying in the state of Tennessee.
- (98) **Tennessee Department of Environment and Conservation (TDEC).** Is the state agency having water pollution control oversight.
- (99) **Top of Bank.** The ordinary high water level and break in slope for a water resource.
- (100) **Tributary Area.** The area upstream of a specified point including all overland flow that directly or indirectly connects down-slope to the specified point.
- (101) **Water Resources.** For the purpose of this Ordinances, means Streams, seeps, springs, wetlands, lakes, other surface waters and water resources that are not wet weather conveyances.

- (102) **Water Quality Buffer Zone.** An area, measured from top of bank of the water resource, which consists of a riparian zone comprised of original or reestablished native vegetation, bordering streams, seeps, springs, wetlands, lakes or other water resources.
- (103) **Water Quality Management Plan.** See Stormwater Management Plan.
- (104) **Watercourse.** A man-made or natural hydrologic feature with a defined linear channel which discretely conveys flowing water, as opposed to sheet-flow.
- (105) **Waters of the State (or waters).** Any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through, or border 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.
- (106) **Watershed.** All the topographically defined land area that contributes runoff to a particular point along a waterway.
- (107) **Wet weather conveyance.** Man-made or natural watercourses, including natural watercourses that have been modified by channelization:
- (a) That flow only in direct response to precipitation runoff in their immediate locality;
 - (b) Whose channels are at all times above the ground water table;
 - (c) That are not suitable for drinking water supplies; and
 - (d) In which hydrological and biological analyses indicate that, under normal weather conditions, due to naturally occurring ephemeral or low flow there 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.
- (108) **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.

Section 3

Land Disturbance Permit

- (1) All land disturbing activities shall be in compliance with and permitted under this ordinance.
- (2) No person or entity shall:
 - (a) Clear, grub, grade, alter the natural or existing topography, dump, move or place fill material, excavate, remove any vegetation, alter water quality buffer zones, alter a water resource or begin any land disturbance activities without first obtaining a Land Disturbance Permit for activities requiring a permit under this ordinance.
 - (b) Commence development or redevelopment of any site, building or structure without obtaining a Land Disturbance Permit for activities requiring a permit under this ordinance.
 - (c) Perform land disturbance activities under a Land Disturbance Permit that does not conform to the approved plans.
- (3) Every person or entity shall obtain a Land Disturbance Permit from the City in the following cases:
 - (a) Land disturbing activity, including New Development and Redevelopment that disturbs one acre or more of land or where a proposed change of impervious area results in an increase of one-half acre or more of impervious area;
 - (b) Land disturbing activity that disturbs less than one acre of land if:
 - (i) The City Administrator or designee has determined that the stormwater discharge from a site or activity is causing, contributing to, or is likely to contribute to a violation of a state water quality standard;
 - (ii) The City Administrator or designee has determined that the stormwater discharge is, or likely to be a significant contributor of pollutants to Waters of the State;
 - (iii) Any new development or redevelopment, regardless of size that proposes land disturbing activities within 100 feet of a water resource.

- (4) Every person, owner or entity shall apply for coverage under the State of Tennessee's General NPDES Permit for Discharges of Stormwater Associated with Construction Activity, as amended, latest edition in the following cases:
- (a) If the project results in the disturbance of one acre or more of total land area.
 - (b) Projects or developments of less than one acre of land disturbance if the construction activities at the site are part of a larger common plan of development or sale that comprises one acre or more of land disturbance.
 - (c) Projects or developments of less than one acre of total land disturbance where the director, or authorized representative, of the Division of Water Pollution Control of the State of Tennessee, Department of Environment and Conservation has determined that:
 - (i) the stormwater discharge from a site is causing, contributing to, or is likely to contribute to a violation of a state water quality standard;
 - (ii) the stormwater discharge is, or is likely to be a significant contributor of pollutants to waters of the state, or
 - (iii) 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.

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

- (a) Any emergency activities that are immediately necessary for the protection of life, property or natural resources;
- (b) Agricultural land management activities;
- (c) Additions or modifications to an existing single family residential structure or property that disturb less than one (1) acre, including residential gardens.
- (d) The owner or developer whose land disturbing activity has been exempted from requirements for registration shall nevertheless be responsible for otherwise conducting such activity in accordance with the provisions of this ordinance and other applicable laws including responsibility for controlling erosion and sedimentation. 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 erosion prevention and sediment control plan (EPSC) and the approved stormwater pollution prevention plan (SWPPP) for the larger common plan ; such developments are subject to

the terms of the requirements therein, including but not limited to: gravel construction entrance/exits, necessary erosion controls, concrete washout restrictions, etc.

- (6) Land disturbance permits. Each application for the issuance of a permit under this section shall include the following:
- (a) Name, address and telephone number of owner or developer of land;
 - (b) Name of Applicant
 - (c) Business or residence address of applicant
 - (d) Address and legal description of subject property or properties including the tax map and parcel number;
 - (e) Name, address and telephone number of the contractor and any subcontractor(s) who will perform the land disturbing activity and who will implement the erosion and sediment control plan;
 - (f) If a Tennessee General NPDES Permit is applied for, a copy of the Notice of Intent (NOI) as well as a copy of the Notice of Coverage (NOC) issued by the state shall be sent to the City Administrator or designee;
 - (g) A project narrative describing the land disturbance activity, including the size of the area for which the permit is applicable, and a schedule for the starting and estimated completion dates of each phase of the land disturbing activity;
 - (h) Disturbed area in acres if over proposed land disturbance is over one (1) acre and in square feet if proposed land disturbance is under one (1) acre.
 - (i) A description of the existing impervious area with a total or aggregate amount of impervious area provided in square feet for each parcel or property of the development or redevelopment;
 - (j) Drainage areas for all proposed disturbed areas and the drainage areas both onsite and offsite to each disturbed area;
 - (k) Distance from the project site and proposed land disturbance activities to the nearest water resource;
 - (l) An Erosion Prevention and Sediment Control Plan to address Construction Site Runoff Control, as described in Section 4;

- (m) A Stormwater Pollution and Prevention plan to addresses activities at the site that cause or introduce pollutants in stormwater, as described in Section 4, for all land disturbing activity that results in the disturbance of one half acre or more of total land area or an increase in over one half acre of impervious area or both;
- (n) A Stormwater Management Plan to address permanent stormwater management in New Development and Redevelopment as described in Section 5, for all land disturbing activity that requires a SWMP under Section 5 of this ordinance;
- (o) Each application for a land disturbance permit shall be accompanied by payment of Land Disturbance Permit fee and any other necessary Stormwater Management fees required by this Ordinance; and
- (p) When the City Administrator or designee has determined the need for verification of existence of a water resource, the application shall be accompanied by a Hydrologic Determination performed by a Qualified Hydrologic Professional (QHP).

(7) Review and approval of application.

- (a) The City Administrator or designee or their designated representative shall review each application for a Land Disturbance Permit to determine its conformance with the provisions of this Ordinance. Within thirty (30)days after receiving the application the Stormwater Program shall provide one of the following responses in writing to the applicant:
 - (i) Approval of permit application;
 - (ii) Approval of permit application, subject to reasonable conditions as may be necessary to secure the objectives of this Ordinance and other applicable regulations, and issue the permit subject to these conditions; or
 - (iii) Denial of the permit application indicating the reason(s) for the denial.
- (b) No land disturbance permit or building permit shall be issued until an Erosion Prevention and Sediment Control Plan (EPSCP) has been approved by the City Administrator or designee for projects requiring an ESPCP under this ordinance.
- (c) No land disturbance permit or building permit shall be issued until a Stormwater Pollution Prevention Plan (SWPPP) has been approved by the City Administrator or designee for projects requiring a SWPPP under this ordinance.

- (d) No land disturbance permit, building permit or site plan approval shall be issued until a Stormwater Management Plan (SWMP) has been approved by the City Administrator or designee for projects requiring a SWMP under this ordinance.
- (e) The City Administrator or designee shall not approve an EPSCP, SWPPP or SWMP without the inclusion of an approval stamp accompanied by a signature and date on the plans. The stamp of approval on the plans is solely an acknowledgement of satisfactory compliance with the requirements of these regulations. The approval stamp does not constitute a representation or warranty to the applicant or any other person(s) concerning the safety, appropriateness or effectiveness of any provision or omission from the plans.
- (f) A permit application fee of fifty dollars (\$50.00) for zero to two (0-2) disturbed acres plus twenty-five dollars (\$25.00) per acre or portion thereof above two (2) acres with a maximum fee of one hundred twenty-five dollars (\$125.00) shall be charged the applicant for review of the application. Failure to obtain any permit required hereunder prior to commencing land disturbing activity, in addition to all other fines and civil penalties provided hereunder, shall increase the permit application fee by one hundred percent (100%).
- (g) No site plan, planned unit development plan, nor subdivision plat shall be considered as having received final approval until such time as all conditions have been met to allow the issuance of a Land Disturbance Permit under the provisions of Sections 3, 4 and 5 of this Ordinance.
- (h) No plat for subdivision of property where land disturbance is required or proposed shall be considered having received final approval until such time as all conditions have been met to all the issuance of a Land Disturbance Permit under the provisions of Sections 3, 4, and 5 of this Ordinance.
- (i) Pre-Submittal and Pre-Construction coordination and/or meetings shall be conducted for all Development activities receiving Land Disturbance permits in the following case:
 - (i) project results in the disturbance of one acre or more of land area
 - (ii) project or development of less than one acre or land disturbance if the construction activities at the site are part of a larger common plan of development or sale that comprise at least one acre of land.
 - (iii) Project where the construction activities and/or land disturbance at the site are within 100' of a water resource.

- (j) A Land Disturbance Permit shall expire and become null and void if substantial work authorized by such permit has not commenced within (1) calendar year of issuance.
 - (k) If work is to continue after the expiration of the permit, the permit holder shall submit a written request for renewal of the permit to the City Administrator or designee as outlined under this section. If work is complete at the time of permit expiration, the permit holder shall submit a Request for Final Inspection to the Stormwater Program as outlined below.
- (8) Performance bond. A performance bond in an amount equal to one hundred fifty percent (150%) of the city's estimated cost of completion of the work identified in the permit(s), in form satisfactory to the city shall be required as a condition precedent to the city's issuance of the land disturbing permit for all land disturbing activity that results in the disturbance of one acre or more of total land area;
- (9) Release of Bond. Upon completion of the land disturbing activity, approval of the request for termination, approval of the as-built post construction stormwater management survey and analysis, and recording of the inspection maintenance agreement with the Hamblen County Register of Deeds the performance bond will be released subject to any amounts required to be withheld until permanent vegetation is established.
- (10) Transfer of ownership.
- (a) Some construction projects, such as residential or commercial subdivisions and/ or developments or industrial parks are subdivided. Subdivided lots are sometimes sold to new owners prior to completion of construction. The site 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.
- (11) Renewal of a permit.
- (a) The applicant is solely responsible for submitting a written request for renewal to the City Administrator or designee, if work is to continue after the expiration of the permit.

- (b) Renewal of the permit may require payment of an additional land disturbance permit fee.
- (12) Amendment of a permit. A land disturbing permit shall be amended when significant changes from the initial permit occurs as follows:
 - (a) Project changes resulting in an increased or decreased amount of disturbed land from what was indicated in the original permit application.
 - (b) Changes resulting in different permanent runoff characteristics from those that were permitted in the initial permit.
 - (c) Changes resulting in an increase in impervious area.
- (13) Amendments to a permit shall be submitted in writing to the City Administrator or designee, and shall include documentation of the changes requiring the amendment. Such documentation may include, but is not limited to; revised site drawings; amended EPSCP, SWPPP, SWMP; revised hydrology reports and revised permanent stormwater inspection and maintenance plans. Additional fees may be required for an amended permit.
- (14) Notice of Termination.
 - (a) Land disturbance permits shall remain in effect as stated in this Ordinance until a Request for Final Inspection is submitted to the City Administrator or designee and the request is processed and approved by the Stormwater Program. The request for final inspection applies only to the construction component of the permit. The permanent stormwater management component(s), described in the Inspection and Maintenance Agreement and related documentation of the permit shall have no expiration.
 - (b) Supporting documents required for the submittal of the Final Inspection shall be outlined on the Request for Final Inspection form and provided to the applicant at permit issuance.
 - (c) Failure to submit the Request for Final Inspection and supporting documentation and receive approval of Termination of a permit may result in the City Administrator's or designee's request to withhold the issuance of a Certificate of Occupancy or approval of a final plat.
 - (d) Permit holders shall be notified in writing when their permit has been terminated.

- (e) Termination of the land disturbance component of the permit does not relieve responsibility for proper inspection, operation and maintenance of the permanent stormwater management devices, measures, controls, and facilities as required in the Inspection and Maintenance Agreement, as described in Section 5.

- (15) Inspections and Site Assessment. Site inspection and site assessment of all erosion and sediment control practices shall be performed by permit holders or their designated representative for any land disturbance activities covered under a land disturbance issued pursuant to Sections 3, 4 and 5 of this Ordinance in accordance with the current edition of the "State of Tennessee's General NPDES Permit for Discharges of Stormwater Associated with Construction Activity" where the land disturbance meets the requirements of Section(s) 3.3(a)(b)(c) as provided under this ordinance.

- (16) The Stormwater Program may perform inspections on priority construction sites and other construction sites as warranted by site location and complaints. If the Stormwater Program determines that the permit holder has failed to properly install, maintain, or use proper structural or vegetative erosion and sediment control practices as specified in the erosion and sediment control plan, stormwater management plan and the post construction design and maintenance plans, the permit holder may be subject to a stop work order or additional penalties in accordance with Sections 8 and 9 of this Ordinance and the City of Morristown Stormwater Program Standard Operating Procedures; as amended, most current edition.
 - (a) The City Administrator or designee may require inspection by an engineer for any erosion and sediment control measure or post construction stormwater management facility to ensure they meet the design standards as described in the approved construction site plans, post construction site plans, and stormwater management plan. If the City Administrator or designee determines that significant erosion or sedimentation is occurring on a site despite approved structural or vegetative erosion and sediment control practices, the Stormwater Program shall require the permit holder to take additional corrective action to protect the adversely affected area. The additional corrective action required shall be part of an amended stormwater pollution prevention plan and the erosion and sediment control plan.

 - (b) Inspections and maintenance for post construction stormwater facilities shall be performed as required in Section 5 for design and maintenance of stormwater management systems, facilities and BMPs in accordance with the City of Morristown Stormwater Program Standard Operating Procedures; as amended, most current edition.

- (17) Disclaimer of liability. The submission of plans under the provisions herein, the compliance with the provisions of these regulations, and/ or the satisfaction of any

requirements or any approvals of the Stormwater Program shall not relieve any person from responsibility for damages to any person or property otherwise imposed by law; nor shall the foregoing impose any liability upon City of Morristown, its officials, its representatives, and/ or agents for damages to any person or property.

Section 4

Erosion Prevention and Sediment Control

This section shall be applicable to all Land Development, including new Development and Redevelopment, subject to a Land Disturbance Permit as described in this Ordinance.

(1) Erosion Prevention and Sediment Control BMP manuals.

- (a) The Stormwater Program adopts as its best management practices (BMP) manuals for, construction sequencing, erosion prevention and sediment control for vegetative and structural BMP's, the City of Morristown Stormwater Program Standard Operating Procedures; as amended, most current edition.
- (b) The Stormwater Program Standard Operating Procedures include a list of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each BMP and stormwater practice. Designs contained in the Stormwater Program Standard Operating Procedures may be adjusted at the discretion of the design engineer in accordance with updated and improved practices, subject to the City Administrator or designee approval.
- (c) The Stormwater Program Standard Operating Procedures may be updated and expanded from time to time, upon the recommendation of the City Administrator or designee based on improvements in engineering, science, monitoring and local maintenance experience, or changes in federal or state law or regulation. Stormwater facilities that are designed, constructed and maintained in accordance with these criteria will be presumed to meet the minimum water quality performance standards.

(2) Stormwater Pollution Prevention Plan (SWPPP). The Stormwater Pollution Prevention Plan shall provide for a site-specific written document that accurately describes the potential for stormwater pollution at the project site and shall explain and illustrate the measures that are to be taken to control stormwater pollution at the source. The plan shall conform to the requirements found in the current TDEC Construction General Permit for construction site stormwater and the Stormwater Program Standard Operating Procedures The plan shall be signed and sealed by an engineer or landscape architect and shall provide for the following:

- (a) Identifies all potential sources of stormwater pollution at the construction site

- (b) Describes practices to reduce all pollutants in stormwater discharges from the construction site.
 - (c) Describes how reduction of pollutants will be achieved by controlling the volume and velocity of stormwater runoff for construction and post construction.
 - (d) Provide for all signatory, record keeping, inspections, rainfall data, inspection logs, chain of custody procedures and related administrative requirements of the construction general permit
 - (e) Identifies procedures the operator will implement to comply with all terms and conditions of the construction general permit
- (3) A SWPPP meeting the minimum requirements of this section shall be provided for all land disturbing activity that results in the disturbance of one half acre or more of total land area and meets the following criteria:
- (a) A Water Quality Buffer Zone is present on or adjacent to the project site or proposed land disturbance activity.
 - (b) Stormwater discharges from the project site or land disturbance activity will discharge directly to a Water Resource.
- (4) Erosion Prevention and Sediment Control Plans (EPSCP). As a critical component of the SWPPP, the erosion and sediment control plan 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 erosion at the source and prevent the transport of sediment from the project to downstream property. The length and complexity of the plan will depend upon the size of the project, severity of the site condition and potential for off-site damage. The plan shall conform to the requirements found in the current TDEC Construction General Permit for construction site stormwater and the Stormwater Program Standard Operating Procedures. The plan shall be sealed by an engineer or landscape architect.
- (5) An EPSCP meeting the minimum requirements of this section shall be provided for all projects requiring a land disturbance permit under this ordinance.
- (6) The erosion and sediment control plan shall include the following:
- (a) Name, address and telephone number of owner or developer of land;
 - (b) Address and legal description of subject property or properties including the tax map and parcel number;

- (c) Name, address and telephone number of the contractor and any subcontractor(s) who will perform the land disturbing activity and who will implement the erosion and sediment control plan;
- (d) A project narrative describing the land disturbance activity, including the size of the area for which the permit is applicable, the number of units and location of structures to be constructed, infrastructure required and a schedule for the starting and estimated completion dates of each phase of the land disturbing activity;
- (e) Disturbed area in acres if proposed land disturbance is over one (1) acre and in square feet if proposed land disturbance is under one (1) acre.
- (f) A description of the pre-developed and post developed drainage system including the drainage areas for all proposed disturbed areas and the drainage areas both onsite and offsite to each disturbed area;
- (g) Distance from the project site and proposed land disturbance activities to the nearest water resource including the location and identification of all existing drainage ways, including streams and wet-weather conveyances and including floodways or floodplains to which the project site will drain.
- (h) A topographic map with contour intervals of two (2) feet or less showing present conditions and proposed contours resulting from land disturbing activity.
- (i) A general description of existing land covers. Individual trees and shrubs do not need to be identified.
- (j) 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 specimen trees in buffers, 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 for construction and post construction.
- (k) Approximate limits of proposed clearing, grading and filling.
- (l) A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.
- (m) Location, size and layout of proposed stormwater and sedimentation control improvements.

- (n) The proposed drainage network and proposed waterway sizes.
- (o) Approximate flows of existing stormwater leaving any portion of the site and 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.
- (p) The projected sequence of work represented by the grading, drainage, 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 BMPs. Plans should include the following drawings where applicable:
 - (i) Clearing and grubbing plan;
 - (ii) Interim grading plan; and
 - (iii) Final grading plan.
- (q) 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, shall be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan.
- (r) Specific details for the construction of stabilized construction entrance/exits, concrete washouts, and sediment basins for controlling erosion; road access points; eliminating soil, sediment, and debris on streets and public ways. 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 Administrator or designee. Failure to remove the sediment, soil or debris shall be deemed a violation of this Ordinance.
- (s) 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. Specific details for construction waste management shall be provided in the SWPPP.

- (t) A listing of any legally protected state or federally listed threatened or endangered species and/or critical habitat (if applicable) located in the area of land disturbing activities, and a description of the measures that will be used to protect them during and after grading and construction. United States Fish and Wildlife approval is required for all protection measures.
- (u) The approved plan shall be amended if the proposed site conditions change after plan approval is obtained as required by Section 3 of this ordinance, or if it is determined by the City Administrator or designee during the course of grading or construction that the approved plan is inadequate.
- (v) The approved stormwater management plans, erosion prevention and sediment control plans, and stormwater pollution prevention plans shall be adhered to during land disturbance, grading and construction activities. Under no circumstance is the owner or operator of land disturbance activities, or any person(s) acting on the owner's behalf, allowed to deviate from the approved plan without prior approval of a plan amendment by the City Administrator or designee.
- (w) Other Items Needing Control

- (i) No solid materials, including building materials, shall be placed in waters of the state, except as authorized by a section 404 permit and/ or ARAP permit.
- (ii) For installation of any waste disposal systems on site, sanitary sewer or septic system, the EPSCP and SWPPP shall identify these systems and provide for the necessary erosion prevention and sediment controls. Permittees must also comply with applicable state and/ or local waste disposal, sanitary sewer and/or septic system regulations for such systems to the extent these are located within the permitted area.
- (iii) The SWPPP shall include a description of construction and waste materials expected to be stored on site. The SWPPP shall also include a description of controls used to reduce pollutants from materials stored on site, including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response.
- (iv) A description of stormwater sources from areas other than construction and a description of controls and measures that will be implemented at those sites.
- (v) A description of and an implementation plan for measures necessary to prevent a "taking" of legally protected state or federal listed threatened or endangered aquatic fauna and/ or critical habitat (if applicable).

(7) General criteria for erosion and sediment controls.

- (a) Erosion and sediment controls must be properly selected and installed in accordance with good engineering practices before land disturbance, development or earth moving activities begin. Effective erosion prevention and sediment controls should be designed, installed and maintained to minimize the discharge of pollutants. At a minimum, such controls must be designed, installed and maintained to:
 - (i) Control stormwater volume and velocity within the site to minimize soil erosion;
 - (ii) Control stormwater discharges, including both peak flow rates and total stormwater volume, to minimize erosion at outlets and to minimize downstream channel stream bank erosion;
 - (iii) Minimize the amount of soil exposed during construction activity;
 - (iv) Minimize the disturbance of steep slopes;
 - (v) Eliminate (or minimize if complete elimination is not possible) sediment discharges from the site. The design, installation and maintenance of erosion prevention and sediment controls must address factors such as the design storm and soils characteristics, including the range of soil particle sizes expected to be present on the site;
 - (vi) Provide and maintain natural buffers around surface waters, direct stormwater to vegetated areas to increase sediment removal and maximize stormwater infiltration, unless infeasible; and
 - (vii) Minimize soil compaction and, unless infeasible, preserve topsoil.
- (b) Temporary measures may be removed at the beginning of the day but must be replaced at the end of the work day.
- (c) Construction shall be sequenced and phased on all projects regardless of size as a major practice to minimize exposure of bare soil and limit sediment discharges. Construction shall be phased to keep the total disturbed area less than 50 acres at any one time.
- (d) Pre-construction vegetative ground cover shall not be disturbed more than the time allowed under State of Tennessee's General NPDES Permit for Discharges of Stormwater Associated with Construction Activity, as amended, current edition,

prior to land disturbance, grading or earth moving unless the area is seeded or mulched or other temporary cover is installed. Erosion prevention and sediment control measures must be in place and functional before land disturbance activities begin, and must be constructed and maintained throughout the construction period.

- (e) A temporary or permanent sediment basin must be installed for areas required by the State of Tennessee's General NPDES Permit for Discharges of Stormwater Associated with Construction Activity, as amended, current edition.
- (f) Soil stabilization measures shall be initiated on any portion of a site where construction activity has temporarily or permanently ceased. The timeframe for initiation of these measures shall be within the time allowed by the State of Tennessee's General NPDES Permit for Discharges of Stormwater Associated with Construction Activity, as amended, most current edition. Where precluded by snow cover or frozen ground conditions stabilization measures shall be initiated as soon as possible. Stabilization measures do not have to be initiated where disturbing activities will resume within the time allowed.
- (g) Temporary or permanent soil stabilization shall be accomplished within time allowed by the State of Tennessee's General NPDES Permit for Discharges of Stormwater Associated with Construction Activity, as amended, current edition after final grading or other earth work.
- (h) Public roads should be thoroughly cleaned of any sediment transported off the site by the end of each day or more often if deemed necessary by City Administrator or designee or Staff.
- (i) Operators of construction sites must control waste such as litter, construction debris, chemicals, concrete truck washout and sanitary waste from being a source of stormwater pollution.
- (j) After use, silt fences should be removed and disturbed areas stabilized.

(8) Disclaimer of liability. The submission of plans under the provisions herein, the compliance with the provisions of these regulations, and/ or the satisfaction of any requirements or any approvals of the Stormwater Program shall not relieve any person from responsibility for damages to any person or property otherwise imposed by law; nor shall the foregoing impose any liability upon City of Morristown, its officials, its representatives, and/ or agents for damages to any person or property.

Section 5

Permanent Stormwater Management Design, Maintenance and Inspection

- (1) The requirements provided in this section shall be applicable to all Land Development, including new Development and Redevelopment, subject to a Land Disturbance Permit as described in Sections 3 and 4.
 - (a) Approval of a WQMP from the City will not be required for an entity which holds or will hold an active Tennessee Stormwater Multi-Sector General Permit for Industrial Activities (TMSP) from the Tennessee Department of Environment and Conservation (TDEC), provided the TMSP holder:
 - (i) applies for new or modified TMSP coverage for the area of proposed development or redevelopment.
 - (ii) provides a copy of the “Notice of Intent (NOI) for Storm Water Discharges Associated with Industrial Activity under the TMSP” with which they applied for TMSP coverage to the City.
 - (iii) remains in full compliance with the TMSP. This includes developing and updating as necessary the Stormwater Pollution Prevention Plan (SWPPP) and Spill Prevention Control and Countermeasures (SPCC) Plan (if SPCC is required).
- (2) No land disturbance or building permit shall be issued until a stormwater management plan has been approved by the City Administrator or designee for all Land Development, including new Development and Redevelopment as required by this section.
- (3) MS4 Stormwater design and BMP manuals.
 - (a) The Stormwater Program adopts as its MS4 stormwater design and best management practices (BMP) manual for stormwater management the City of Morristown Stormwater Program Standard Operating Procedures; as amended, most current edition.
 - (b) The Stormwater Program’s Standard Operating Procedures include a list of acceptable measures, controls and practices including the specific design performance criteria and operation and maintenance requirements for each. These include Stormwater Program approved BMPs, SCMs, GIPs and related stormwater design criteria for permanent stormwater management facilities and systems. Design Standards contained in the Stormwater Program Standard Operating Procedures may be adjusted at the discretion of the design engineer in accordance with updated and improved practices, subject to the City Administrator’s or designee’s approval.

(c) The Stormwater Program Standard Operating Procedures may be updated and expanded from time to time upon the recommendation of the City Administrator or designee, based on improvements in engineering, science, monitoring and local maintenance experience, or changes in federal or state law or regulation. Stormwater facilities that are designed, constructed and maintained in accordance with these criteria will be presumed to meet the minimum water quality performance standards.

(4) Stormwater Management Plan (SWMP) Requirements A permanent Stormwater Management Plan shall contain all required documents including but not limited to Detention Analysis, Hydrologic Analysis, Hydraulic Analysis, Runoff Reduction Analysis, WQMP, and SPAP. A SWMP that outlines the use of post construction stormwater management facilities, practices, BMP's, GIP's, SCM's and related methods intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels shall be required in the following cases:

(a) If the project results in an increase of one half acre or more of impervious area.

(b) If the project will result in one half or more acre of land disturbance and meets the following criteria:

(i) A Water Quality Buffer Zone is present on or adjacent to the project site or proposed land disturbance activity.

(ii) Stormwater discharges from the project site or land disturbance activity will discharge directly to a Water Resource.

(c) Projects or developments of less than one acre of land disturbance if the construction activities at the site are part of a larger common plan of development or sale that comprise at least one acre of land disturbance.

(d) The City Administrator or designee may also require stormwater management plan for developments, redevelopments, or land uses that discharge to critical areas with sensitive resources, or areas where the City Administrator or designee has determined that additional restrictions are needed to limit adverse impacts of the proposed land disturbance, development or redevelopment on water quality or channel protection.

(e) Projects or developments of less than one acre of total land disturbance where the director, or authorized representative, of the Division of Water Pollution Control of the State of Tennessee, Department of Environment and Conservation has determined that:

- (i) the stormwater discharge from a site is causing, contributing to, or is likely to contribute to a violation of a state water quality standard;
 - (ii) the stormwater discharge is, or is likely to be a significant contributor of pollutants to waters of the state, or
 - (iii) 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.
- (5) Stormwater Management Plans shall be prepared and stamped by an engineer or landscape architect competent in civil and site design. Portions of the stormwater management plan that require hydraulic or hydrologic calculations and design shall be prepared and stamped by an engineer.
- (6) The stormwater management plan shall include sufficient information to allow the Program 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. The City Administrator or designee may require submittal of additional information in the stormwater management plan as needed to effectuate the purposes of this ordinance. The stormwater management plan shall include at a minimum the following:
 - (a) Topographic base map: Topographic base map of the site which extends beyond the limits of the proposed development the minimum distance required to locate, illustrate and indicate the following:
 - (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; and
 - (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 and non-structural BMPs.

- (c) A written description of the site plan and justification of proposed changes in natural conditions may also be required.
- (d) Calculations: Hydrologic and hydraulic design calculations shall be provided for the pre-development and post-development conditions for the design storms as specified in the BMP manual. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this Ordinance and the guidelines of the BMP manual, as provided in the Stormwater Program Standard Operation Procedures. Such calculations shall include but are not limited to:
 - (i) A description of the design storm frequency, duration, and intensity where applicable
 - (ii) Time of concentration;
 - (iii) Soil types, curve numbers and runoff coefficients including assumed soil moisture conditions;
 - (iv) Peak runoff rates and total runoff volumes for each watershed or drainage area;
 - (v) Infiltration rates, where applicable;
 - (vi) Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;
 - (vii) Flow velocities;
 - (viii) Hydraulic grade line for all components of the stormwater conveyance and stormwater management systems for the 25 year and/or 100 year storm event. Where the hydraulic grade line is not contained within the system a determination of the water surface elevation or ponding elevation shall be provided on the plans and contained within a drainage easement.
 - (ix) Data on the increase in rate and volume of runoff for the design storms referenced in the BMP manual; and
 - (x) Documentation of sources for all computation methods and field test results.
- (e) 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.

- (f) Endangered Species. The stormwater management plan shall include a listing of any legally protected state or federally listed threatened or endangered species and/or critical habitat (if applicable) located in the area of land disturbing activities, and a description of the measures that will be used to protect them during and after grading and construction. United States Fish and Wildlife approval is required for all protection measures.

- (g) General Performance Criteria for Permanent Stormwater Controls. All land disturbance projects, including new development and redevelopment requiring a SWMP under this section shall address the performance criteria included in the Stormwater Program Standard Operating Procedures.
 - (i) Channel Protection. To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the Stormwater Standard Operating Procedures, as amended, latest edition.

 - (ii) Downstream Impact Analysis. To ensure that stormwater management systems maintain pre-development peak flows throughout the downstream conveyance system, an analysis of the downstream impact of the proposed stormwater management system at the point where the drainage area controlled by the system comprises 10% of the total drainage may be required by the City Administrator or designee.

 - (iii) Stormwater discharges to critical areas with sensitive resources (i.e., endangered species, 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.

 - (iv) Stormwater discharges from hot spots may require the application of specific structural BMPs and pollution prevention practices. In addition, stormwater from a hot spot land use may not be infiltrated unless proper pretreatment has been and approved by the City Administrator or designee.

 - (v) A Special Pollution Abatement Plan (SPAP) shall be required for the land uses identified as pollutant hot spots or as required by the City

Administrator or designee for new developments and redevelopments on the basis of:

- (a) land use or type of business;
 - (b) a history of air or water pollution at a site;
 - (c) a history of air or water pollution by an owner/operator at other sites;
 - (d) the potential to impact environmentally sensitive areas, such as wetlands;
 - (e) at the discretion of the City Administrator or designee as needed to address hotspots or pollutants of concerns on a case-by-case basis.
- (vi) Prior to or during the site design process, applicants for land disturbance permits shall consult with the Program to determine if they are subject to additional stormwater design requirements.
 - (vii) Methods and calculations for determining peak flows as found in the Stormwater Standard Operating Procedures, as amended, latest edition shall be used for sizing all stormwater systems and facilities.

(7) Modifications

- (a) The minimum requirements for stormwater management plans may be modified upon written request of the landowner to the City Administrator or designee, provided that at least one (1) of the following conditions applies:
 - (i) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this Ordinance.
 - (ii) Alternative minimum requirements for on-site management of stormwater discharges have been established in a water quality management plan that has been approved by the City Administrator or designee.
 - (iii) Provisions are made to manage stormwater by an off-site facility. The off-site facility must be in place and designed to provide the level of stormwater control that is equal to or greater than that which would be afforded by on-site practices. Further, the facility must be operated and maintained by an entity that is legally obligated to continue the operation and maintenance of the facility in perpetuity with the land on which the facility is constructed.

- (iv) Engineering studies determine that installing the required green infrastructure practices, water quality management facilities or BMPs would actually cause adverse impact to water quality or cause increased channel erosion or downstream flooding.
- (v) Non-structural BMPs will be used on the site that will reduce the generation of stormwater from the site, the size and cost of stormwater storage, and/or the pollutants generated at the site. The City Administrator or designee must approve any such plan and will determine the amount of credit granted for the non-structural BMPs.
 - a. Additional structural BMPs will still be required unless credit for the full stormwater generation is provided.
 - b. If non-structural BMPs are approved, the applicant shall ensure that these practices are documented and remain unaltered by subsequent property owners.
- (vi) Requests to modify the requirements shall be submitted to the City Administrator or designee in writing, along with all necessary plans, specifications, calculations, and other documentation required to demonstrate that one (1) or more of the conditions listed above is met and that the modification will not result in a reduction of water quality.
 - (a) The City Administrator or designee shall not approve modifications that cause any of the following:
 - (i) The city to be in violation of any state or federal NPDES permit, TMDL, or other applicable water quality regulation;
 - (ii) Degradation of biological functions or habitat;
 - (iii) Accelerated stream bank or streambed erosion or siltation;
 - (iv) Deterioration of existing culverts, bridges, dams, or other structures;
 - (v) Increased threat of flood damage
 - (vi) Increased threat to public health, life or property.

- (b) Any modification of the requirements of this Section requires written approval by the City Administrator or designee.
- (c) If a modification requested at the time of plan submission is approved, the modifications must be documented as part of the approved Stormwater Management Plan.
- (d) During construction, an owner may request modifications to the approved Stormwater Management Plan. Until such time as the amended plan is approved by the City Administrator or designee in writing, the land-disturbing activity and associated construction shall not proceed, except in accordance with the Stormwater Management Plan as originally approved.

(8) As-built plans and plat. All applicants are required to submit actual as-built plans and plat which must be sealed by a surveyor and/or engineer that provide for the following:

- (a) Stormwater system and appurtenances constructed as part of implementation of the design plans after final construction.
- (b) Alterations to existing stormwater system and appurtenances as part of implementation of the design plans after final construction is completed.
- (c) Stormwater Management facilities constructed as part of the implementation of the design plans after final construction.
- (d) Alterations to existing stormwater management facilities constructed as part of the implementation of the design plans after final construction.
- (e) Delineation of all proposed stormwater access and drainage easements required for the inspection, maintenance, repair and operation of the stormwater system and stormwater management facilities.

(9) As-Built Analysis. All applicants are required to submit actual as-built analysis that shows the final design specifications and post development analysis for all stormwater management facilities and which must be sealed by an engineer.

(10) The as-built plat and plan shall be submitted to the City Administrator or designee for review in a format as specified in the Stormwater Program Standard Operating Procedures.

(11) A final inspection by the Stormwater Program is required before any performance security or performance bond will be released.

(12) The Stormwater Program shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or performance bond upon completion and approval of the various stages of development.

(13) Certificate of Occupancy shall not be granted until the following is satisfied:

- (a) All stormwater management facilities have been inspected and accepted by the Stormwater Program.
- (b) Corrections to all stormwater management facilities have been made and accepted by the Stormwater Program.
- (c) As-Built plan and plat has been approved by the City Administrator or designee.

(14) Landscaping and Stabilization Requirements.

- (a) 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.
- (b) The following criteria shall apply to revegetation efforts:
 - (i) A landscaping plan may be submitted with the 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. This plan should be included in the Stormwater Management Plan.
 - (ii) 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.
 - (iii) 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.
 - (iv) 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.

(15) Inspection and Maintenance plan. The design and planning of all stormwater management facilities shall include detailed inspection and maintenance procedures to ensure their continued performance to be included in the inspection and maintenance agreement. 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 to perform required maintenance. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for permanent elevation benchmark shall be identified in the plans to assist in the periodic inspection of the facility. These plans must be binding on the current property owners and all subsequent owners of the property and must be properly recorded in the Hamblen County Register of Deeds Office. Recording fees are to be paid by the applicant.

(16) Maintenance Easements. A maintenance right-of-way or easement, having a minimum width of twenty feet (20') shall be provided to all water quality management facilities, BMPs, GIPs, vegetated buffers, runoff reduction practices and water quality volume reduction areas from a driveway, private road, or other accessible route which is connected to the public right of way to ensure access to the site. These easements must be binding on the current property owners and all subsequent owners of the property and must be properly recorded in the Hamblen County Register of Deeds Office.

(17) Inspection and Maintenance Agreement. The owner of property to be served by an on-site stormwater management facility must execute an inspection and maintenance agreement that shall operate as a deed restriction or otherwise be binding on the current property owner and all subsequent property owners. The maintenance agreement shall:

- (a) Assign responsibility for the maintenance and repair of the stormwater facility to the property owners upon which the facility is located and be recorded as such on the plat for the property by appropriate notation;
- (b) Provide for a periodic inspection by the property owner for the purpose of documenting maintenance and repair needs and ensure compliance with the purpose and requirements of this Ordinance.
- (c) Grant Stormwater Program staff permission to enter the property at reasonable times to inspect the stormwater facility to ensure that it is being properly maintained;
- (d) Provide for the minimum maintenance and repair needs to include but not limited to; the removal of silt, litter and other debris; the cutting of grass,

grass cuttings and vegetation removal; the replacement of landscape vegetation; inspection, maintenance and repair of inlets drainage pipes and any other stormwater facilities or appurtenances. It shall also provide that the property owner shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the Stormwater Program Standard Operating Procedures;

- (e) Provide that maintenance needs must be addressed in a timely manner on a schedule to be determined by the Program;
- (f) Provide that if the property is not maintained or repaired within the prescribed schedule, the Program shall perform the maintenance and repair at its expense, and bill two times the Program's cost to the property owner. The maintenance agreement shall also provide that the Program's cost of performing the maintenance shall be a lien against the property.
- (g) These agreements must be binding on the current property owners and all subsequent owners of the property and must be properly recorded in the Hamblen County Register of Deeds Office. Recording fees are to be paid by the applicant.

(18) Inspection of stormwater facilities.

- (a) Periodic inspections of facilities may be performed by the Stormwater Program.
- (b) In order to ensure that all stormwater management facilities and stormwater BMPs are operating correctly and being properly maintained, the Program shall, at a minimum, require owners or operators of stormwater management facilities to:
 - (i) Perform routine inspections to ensure that the BMPs 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.
 - (ii) Perform comprehensive inspections of all stormwater management facilities and practices. These inspections shall be conducted once every five (5) years, at a minimum. Such inspections must be conducted by either an engineer or landscape architect holding the required current Tennessee Erosion Prevention and Sediment Control certifications.

(iii) Complete inspection reports for these five year inspections shall include:

- (a) Facility type;
- (b) Inspection date;
- (c) Latitude and longitude, address and/or nearest street address;
- (d) BMP owner information (e.g. name, address, phone number, fax, and email);
- (e) A description of BMP conditions including: vegetation and soils, inlet and outlet channels and structures, embankments, slopes, safety benches, spillways, weirs, and other structures as well as any sediment and debris accumulation;
- (f) Photographic documentation of BMPs;
- (g) Specific maintenance items or violations that need to be corrected by the BMP owner along with deadlines and re-inspection dates.
- (h) Seal of an engineer or landscape architect.

(19) Record Keeping. Owners or operators shall maintain documentation of these inspections. The Program may require submittal of this documentation upon inspection of a facility, investigation of a drainage concern, or upon request.

(20) Records of installation and maintenance facilities. 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 five (5) years. These records shall be made available to the Program during inspection of the facility and at other reasonable times upon request.

(21) Failure to meet maintenance design or maintenance standards. Any discharge that flows from a stormwater facility or system that is not inspected and maintained in accordance with this Ordinance shall be an illicit discharge. Upon the failure of the party responsible for maintenance to meet or maintain design or maintenance standards, the Program shall notify in writing the party responsible for the stormwater facility or system. Upon receipt of such notice, the responsible person shall cause the failure to be corrected within the time set out by the Program in the written notice. In the event correction is not successfully made

within that time, among its other sanctions the Program may cause the corrections to be made. In such event the person responsible for the stormwater facility shall reimburse City of Morristown or the Program for the (2) two times the expense, which expense shall be a lien against the subject real property until paid in full.

- (22) Disclaimer of liability. The submission of plans under the provisions herein, the compliance with the provisions of these regulations, and/ or the satisfaction of any requirements or any approvals of the Stormwater Program shall not relieve any person from responsibility for damages to any person or property otherwise imposed by law; nor shall the foregoing impose any liability upon City of Morristown, its officials, its representatives, and/ or agents for damages to any person or property.

Section 6

Water Quality Buffer Zone Requirements.

(1) Water Quality Buffer Zone General Requirements:

- (a) A Water Quality Buffer Zone shall be applied to all water resources located in, or adjacent to, New Development, or Redevelopment within the jurisdictional limits of the City of Morristown.
- (b) Water Quality Buffer Zones shall be maintained on all properties within the jurisdictional limits of the City of Morristown in a manner that allows for growth of Climax Successional Vegetation, and shall consist of undisturbed vegetation, preferably Native Vegetation, along both sides of a water resource measured linearly perpendicular from Top of Bank along the length of the water resource.
- (c) All water quality buffer zones shall hereafter be inspected and maintained per the approved Inspection and Maintenance Plan and the Inspection and Maintenance Agreement as part of the approved Stormwater Management System, and as approved by the City Administrator or designee.
- (d) All water quality buffer zones shall hereafter be placed into an easement that is recorded with the deed. The easement and any covenants for the permanent maintenance of water quality buffer zone shall be recorded in the land records and shall run with the land and continue in perpetuity.

- (2) Water Quality Buffer Zone Width Requirements. Buffer Zone widths shall be established according to the size of the drainage area of the water resource and the type of water resource. The Water Quality Buffer shall be applied according to the following criteria:

- (a) Water Resources not listed as Impaired or Exceptional Tennessee Waters with drainage areas less than one (1) square mile shall have a buffer width of thirty (30) feet minimum.
 - (b) Water Resources with drainage areas equal to or greater than one (1) square mile and/or are listed as Impaired or Exceptional Tennessee Waters shall have a buffer width of sixty (60) feet minimum.
 - (c) Water Quality Buffer Zone variances and Water Quality Buffer Zone width averaging is prohibited for any portion of developments with slopes greater than 15% located within the required Water Quality Buffer Zone. Where the slope within the Water Quality Buffer zone meets or exceeds 15% the minimum buffer width must be provided as required by this section.
 - (d) A minimum buffer width of 30-feet shall be provided around the perimeter of a wetland, as measured from the outermost edge of the wetland as determined by USACE, NRCS, TDEC, or a Tennessee Qualified Hydrologic Professional (TN-QHP).
 - (e) Water quality buffers are not required for ponds disconnected from other water resources.
 - (f) Water quality buffers are not required for ponds and wetlands designed and constructed for the purposes of stormwater quality treatment and stormwater management.
- (3) Prohibited Uses and Activities. The following land uses and activities are prohibited within the Water Quality Buffer:
- (a) Developments or facilities that include on-site sewage disposal and treatment system drain fields (i.e., septic systems), raised septic systems, subsurface discharges from a wastewater treatment plant, or land application of bio-solids or animal waste;
 - (b) Landfills (demolition landfills, permitted landfills, closed-in-place landfills);
 - (c) Junkyards;
 - (d) Commercial or industrial facilities that store and/or service motor vehicles;
 - (e) Commercial greenhouses or landscape supply facilities;
 - (f) Developments or facilities that have commercial or public pools;
 - (g) Agricultural facilities, farms, feedlots, and confined animal feed operations;

- (h) Animal care facilities, kennels, and commercial/business developments or facilities that provide short-term or long-term care of animals;
 - (i) Activities requiring a land disturbance permit under this ordinance for which a land disturbance permit has not been applied for, obtained and/or approved; and
 - (j) Other land uses and hot spots identified in this ordinance deemed by to have the potential to generate higher than normal pollutant loadings.
- (4) Allowed Uses and Activities. These uses and activities meeting the criteria outlined below may be allowed within the Water Quality Buffer Zone.
- (a) Conservation uses, wildlife sanctuaries, nature preserves, forest preserves, and fishing areas, provided no impervious surfaces are created within the Water Quality Buffer Zone and where an average Water Quality Buffer Zone width of 30 feet along the project area is maintained.
 - (b) Recreational trails, footpaths and greenways that are either unpaved or paved or pervious and intended for non-motorized vehicle use, where an average Water Quality Buffer Zone width of 30 feet along the project area is maintained. Recreational trails, footpaths, and greenways shall be designed to prevent the channelization of stormwater runoff.
 - (c) Parks, provided that no impervious surfaces are created within the Water Quality Buffer Zone and where an average Water Quality Buffer Zone width of 30 feet along the project area is maintained.
 - (d) Education and/or scientific research that does not require any of the prohibited activities or uses identified in this section provided that no impervious surfaces are created and where an average Water Quality Buffer Zone width of 30 feet along the project area is maintained.
 - (e) Stream restoration projects, facilities and activities, with prior approval of the City Administrator or designee and possessing the required permits from applicable federal and state regulatory agencies.
 - (f) Infrastructure features such as roads, bridges, storm drainage, stormwater management facilities that are appropriate for use in a Water Quality Buffer Zones and utilities, provided that they adhere to the following standards:
 - (i) The width of the disturbance for the feature is the minimum required to allow for maintenance and access;

- (ii) The angle of the buffer crossing shall be within 25% of perpendicular to the stream in order to minimize clearing requirements;
 - (iii) The number of buffer crossings is minimized, with no more than one crossing every one-thousand (1,000) linear feet.
 - (iv) Multiple driveway or private roadway crossings of a stream or a wetland within one development shall be prohibited unless approved by the City Administrator or designee.
 - (v) Maintenance to existing stormwater channels.
 - (vi) Stabilization and maintenance practices to existing outfalls or stormwater channels as needed prevent channelization and erosion in the Water Quality Buffer Zone from stormwater runoff.
- (g) Construction of public water system reservoirs.
- (h) Access areas for utilities (e.g., manholes) that are located in the Water Quality Buffer Zone area are allowed. Access areas must be minimized to the maximum extent possible, and shall be located no less than every 300 feet unless warranted by valid safety, access or service issues.
- (i) Landscaping to allow for Climax Successional Vegetation through the removal of Invasive Exotic Plants and the establishment of Native Vegetation, and/or other practices that restore the Ecological Integrity of the Water Quality Buffer Zone. This includes the following activities:
- (i) Removal of individual trees within the Riparian Buffer which are in danger of falling, causing damage to dwellings or other structures, or causing blockage of the water resource. In such instances, the root wad or stump should be left in place, where feasible, to maintain soil stability.
 - (ii) Minor landscaping is allowed within the water quality buffer zone to repair erosion, damaged vegetation or other problems noted. Only native species of vegetation may be used in conjunction with stabilization activities.
 - (iii) The pruning of native vegetation is allowed provided that the health and function of the vegetation is not compromised. However, only the individual removal of under-story nuisance vegetation (i.e. honeysuckle, kudzu, privet) causing minimal soil disturbance is permitted. On land where the removal of such nuisance vegetation would cause a reduction in the amount of stream canopy by fifty percent (50%) or more, re-vegetation with native plants is required to provide fifty percent (50%) of the previous canopy at a minimum. For areas where such

nuisance vegetation removal would cause a reduction in the amount of stream bank vegetation, re-vegetation with native plants is required to meet the previous coverage

- (5) Protection during Construction and Post Construction. All parties having influence over the condition of the water quality buffer zone must be made aware of its presence in order to preserve its integrity. Therefore, the following minimum measures must be taken:
- (a) All water quality buffer zones shall remain protected from land disturbance, vegetation removal, construction of impervious surfaces, and discharges of sediment and other construction-related wastes during development activities.
 - (b) Inspection and maintenance of water quality buffer zones shall be provided for in the approved Inspection and Maintenance plan as provided in the Inspection and Maintenance Agreement as required by Section 5 of this Ordinance.
 - (c) Water quality buffer zones must be shown on all site plans, construction plans, plats, and the recorded final plat. Where a final plat is not part of the development process (e.g commercial development), the water quality buffer zone shall be included on the as-built plat or survey as required by Section 5 of this ordinance. The buffer should be labeled as "Water Quality Buffer Zone" and be dimensioned from the Top of Bank. Notation shall be provided stating: "There shall be no clearing, grading, construction or disturbance of soil and/or native vegetation except as permitted by the City Administrator or designee."
 - (d) Prior to construction, a construction layout survey must be performed which includes staking and marking the water quality buffer zone. A combination of stakes, flagging, and tree protection fencing shall be used to ensure adequate visibility. On the development side of the buffer, provide erosion and sediment control measures such as tree protection fencing along the exterior edge of the water quality buffer zone to prevent further construction impacts.
 - (e) Permanent boundary markers, in the form of signage provided or approved by the City of Morristown's Stormwater Program, shall be installed prior to the completion of the development activities. Signage is to be posted at the coincidence of the water quality buffer zone edge, each lot line, and at a maximum spacing of one hundred fifty feet (150'). The sign shall contain the message, "Water Quality Buffer Zone: This area is reserved for the protection of water quality by limiting pollution, offering shade and bank stabilization, and providing wildlife habitat."
 - (f) Where the standards and management requirements of this ordinance are in conflict with other laws, regulations, and policies regarding streams, steep slopes, erodible soils, wetlands, floodplains, timber harvesting, land disturbance activities or other environmental protective measures, the more restrictive requirements shall apply.

(6) Variance Procedures. An alteration to the Water Quality Buffer Zone width and use of the Water Quality Buffer Zone for uses prohibited by this ordinance shall require a variance from the Stormwater Violations Appeals Board (SVAB). For Stormwater Violations Appeals Board see section 7 of this Ordinance.

- (a) Variance applications for alternative Water Quality Buffer Zone width, use and activities shall be submitted to the City Administrator or designee with all applicable fees and information as required by this ordinance.
- (b) Variance applications for alternative Water Quality Buffer Zone width, use and activities will be reviewed by the City Administrator or designee only where the applicant provides reasonable evidence that impacts to the buffer have been avoided or minimized to the fullest extent practicable. Reduction of the Water Quality Buffer Zone width may apply to specific areas of an overall Development, and shall be reviewed on a case-by-case basis as provided by this section. A determination that standards cannot be met shall not be based solely on difficulty or cost associated with implementation.
- (c) The City Administrator or designee shall transmit to the SVAB all papers constituting the record upon which the variance was requested. The SVAB shall fix a reasonable time for the hearing of the variance, give public notice thereof, as well as due notice to the parties in interest and decide the same within a reasonable time. Upon the hearing, any persons or party may appear in person, or by agent, or by attorney.
- (d) Variance applications will be reviewed by the SVAB only where the applicant provides reasonable evidence that impacts to the buffer have been avoided or minimized to the fullest extent practicable and only in the following cases:
 - (i) The project involves the construction or repair of an existing infrastructure project or a structure that, by its nature, must be located within the buffer. Such structures include but are not limited to, dams, public water supply intake structures, detention/retention ponds, waste water discharges, docks including access ways, boat launches including access ways, and stabilization of areas of public access to water; or
 - (ii) the project will result in the restoration or enhancement to improve water quality and/or aquatic habitat quality; or
 - (iii) Buffer intrusion is necessary to provide reasonable access to a property or properties; or
 - (iv) The intrusion is for gravity-flow sewer lines that cannot reasonably be placed outside the buffer, and stream crossings and vegetative disturbance are minimized; or

- (v) Crossing for utility lines, including but not limited to gas, liquid, power, telephone, and other pipelines, provided that the number of crossings and the amount of vegetative disturbance are minimized; or
- (vi) Recreational foot trails, greenways and viewing areas, providing that impacts to the buffer are minimal; or
- (vii) the project involves construction of one (1) single family home for residential use by the owner of the subject property and, at the time of adoption of this rule, there is no opportunity to develop the home under any reasonable design configuration unless a buffer variance is granted. Variances will be considered for such single family homes only if construction is initiated or local government approval is obtained prior to April 1, 2016; or
- (viii) The proposed land disturbing activity requires an Aquatic Resource Alteration Permit (ARAP) or a §401 Water Quality Certification (§401 certification) and the Tennessee Department of Environment and Conservation has approved a mitigation plan to be implemented as a condition of such a permit; or
- (ix) The proposed land disturbing activity within the buffer will require a permit from the United States Army Corps of Engineers under Section 404 of the federal Water Pollution Control Act Amendment of 1972, 33 U.S.C. Section 1344, and the Corps of Engineers has approved a mitigation plan to be implemented as a condition of such a permit; or
- (x) a plan is provided for buffer intrusion that shows that, even with the proposed land disturbing activity within the buffer, the completed project will result in maintained or improved water quality downstream of the project; or
- (xi) the project with a proposed land disturbing activity within the buffer in a stream segment listed as impaired under Section 303(d) of the federal Water Pollution Control Act Amendment of 1972, 33 U.S.C. Section 1313(d) and a plan is provided that shows that the completed project will result in maintained or improved water quality in such listed stream segment and that the project has no adverse impact relative to the pollutants of concern in such stream segment; or
- (xii) Variances may be granted for projects that are already covered by a valid, unexpired land disturbance permit issued prior to April 1, 2016.

- (e) When deemed appropriate the SVAB may consider variances to the Water Quality Buffer Zones width. The SVAB may relax the Water Quality Buffer Zone width to become narrower at some points as provided under this section per the following criteria as follows:
- (i) The 60' Water Quality Buffer Zone can be established on an average width basis as long as the width is not reduced to less than thirty feet (30') feet on both sides of the water resource as measured from Top of Bank.
 - (ii) If the Water Quality Buffer Zone as defined by this ordinance cannot be fully accomplished onsite, the SVAB may apply the criteria provided in this section for the issuance of a variance for alternative buffer widths. However, in no case can the width be reduced to less than fifteen (15) feet on both sides of the water resource as measured from Top of Bank.
 - (iii) The SVAB may offer credit for additional building density elsewhere on the site in compensation for the loss of developable land due to the requirements of this section. This compensation may increase the total number of dwelling units on the site up to the amount permitted under the base zoning.
- (f) When considering a request for a variance, the SVAB may require additional information in order to ensure the proposed buffer variance will not have or cause to have adverse impacts on water quality. Upon receipt of a completed application in accordance with this section the Board shall consider the completed application and the following factors in determining whether to issue a variance:
- (i) Locations of state waters, wetlands, floodplain boundaries and other natural features as determined by field surveys.
 - (ii) Shape, size, topography, slope, soils, vegetation and other physical characteristics of the property.
 - (iii) Location and extent of buffer intrusion.
 - (iv) Whether reasonable alternative project designs, such as the use of retaining walls, are possible which do not require buffer intrusion or which require less buffer intrusion.
 - (v) Whether issuance of the variance, with the required mitigation plan, re-vegetation plan and/or plan for permanent vegetation, is at least as protective of natural resources and the environment (including wildlife habitat).

- (vi) The current condition of the existing buffer, to be determined by:
1. The extent to which existing buffer vegetation is disturbed;
 2. The hydrologic function of the buffer; and water resource characteristics such as bank vegetative cover, bank stability, prior channel alteration or sediment deposition.
 3. The extent to which the encroachment into the buffer may reasonably impair buffer functions.
- (vii) The value of mitigation activities conducted pursuant to this section to be determined by development techniques or other measures that will contribute to the maintenance or improvement of water quality, including the use of green infrastructure, low impact designs and integrated best management practices, and reduction in effective impervious surface area.
- (viii) The long-term water quality impacts of the proposed variance, as well as the construction impacts
1. The SVAB will assume that the existing water quality conditions are commensurate with an undeveloped forested watershed unless the applicant provides documentation to the contrary. If the applicant chooses to provide baseline documentation, site and/or water resource reach specific water quality, habitat, and/or biological data would be needed to document existing conditions. If additional data are needed to document existing conditions, the applicant may need to submit a monitoring plan and have it approved by the City Administrator or designee prior to collecting any monitoring data. Existing local data may be used, if available and of acceptable quality to the City Administrator or designee.
 2. The results of the predicted pollutant loading under pre- and post-development conditions as estimated by models accepted by the City Administrator or designee indicate that existing water quality conditions will be maintained or improved.
- (ix) For applications for which a land disturbing activity is proposed within the buffer of a 303(d) listed water resource the results of the model demonstrate that the project has no adverse impact relative to the pollutants of concern in such stream segment.

Illicit Discharges

- (1) Scope. This section shall apply to all water generated on developed or undeveloped land entering the Program's MS4.
- (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. Non-stormwater discharges shall include, but shall not be limited to:
 - (a) sanitary wastewater;
 - (b) car wash wastewater;
 - (c) radiator flushing disposal;
 - (d) spills from roadway accidents;
 - (e) carpet cleaning wastewater;
 - (f) effluent from septic tanks;
 - (g) improper oil disposal;
 - (h) laundry wastewater/gray water;
 - (i) improper storage , disposal or discharge of auto and household products.
 - (j) Improper storage, disposal or discharge of solid waste, including discharge from vehicles
 - (k) any discharge that flows from a stormwater facility that is not inspected and maintained in accordance with Section 5 and 14 of this Ordinance and in accordance to the Stormwater Program Standard Operating Procedures, as amended, lasted edition.
 - (l) Discharge related activities that are likely to jeopardize the continued existence of any state or federally listed species or result in the adverse modification or destruction of habitat that is designated as critical under the Endangered Species Act (ESA) or other applicable state law or rule.
 - (m) Discharge or conduct discharge related activities that will cause a prohibited take of federally listed species (as defined under Section 3 of the ESA and 50 CFR §17.3), unless such take is authorized under Sections 7 or 10 of the ESA.

- (n) Discharge or conduct discharge-related activities that will cause a prohibited take of state listed species (as defined in the Tennessee Wildlife Resources Commission Proclamation, Endangered or Threatened Species, and in the Tennessee Wildlife Resources Commission Proclamation, Wildlife in Need of Management), unless such take is authorized under the provisions of Tennessee Code Annotated §70-8-106(e)
 - (o) Discharges that would cause or contribute to an in-stream exceedance of water quality standards.
 - (p) Discharges of any pollutant into any water for which a Total Maximum Daily Load (TMDL) has been approved by EPA, where the TMDL establishes a specific waste load allocation and recommends it be incorporated into an individual NPDES permit.
 - (q) Discharges of materials resulting from a spill, except emergency discharges required to prevent imminent threat to human health or to prevent severe property damage, provided reasonable and prudent measures have been taken to minimize the impact of the discharges.
- (3) Exempt Discharges. 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) Irrigation or lawn watering with potable water;
 - (iii) Diverted stream flows;
 - (iv) Rising ground water;
 - (v) Groundwater infiltration to storm drains, infiltration does not include sanitary sewer inflow;
 - (vi) Pumped groundwater;
 - (vii) Foundation or footing drains;
 - (viii) Crawl space pumps;
 - (ix) Air conditioning condensation;

- (x) Springs;
- (xi) Individual residential car washing;
- (xii) Natural riparian habitat or wetland flows;
- (xiii) Firefighting activities;
- (xiv) Discharges specified in writing by the Program as being necessary to protect public health and safety.
- (xv) Dye testing is an allowable discharge if the Program has so specified in writing.
- (xvi) Discharges authorized by the Construction General Permit (CGP), as amended, latest edition.
 - 1. dewatering of work areas of collected stormwater and ground water (filtering or chemical treatment may be necessary prior to discharge);
 - 2. 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;
 - 3. water used to control dust in accordance with CGP, as amended, latest edition.
 - 4. potable water sources including waterline flushing from which chlorine has been removed to the maximum extent practicable;
 - 5. routine external building wash-down that does not use detergents or other chemicals;
 - 6. uncontaminated groundwater or spring water; and
 - 7. foundation or footing drains where flows are not contaminated with pollutants (process materials such as solvents, heavy metals, etc.).

(4) 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.

(5) Prohibition of Illegal Dumping. 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 Program Service Area. It shall be illegal for any person to intentionally dump or spill liquids or solids that are considered pollutants by the U.S. Environmental Protection Agency (EPA) on the ground where there is potential exposure to rain or stormwater and potential for the pollutant to reach the municipal separate storm sewer system of the city.

(6) 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 BMPs 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 BMPs that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit.

(7) 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 Program 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 Program 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.

(8) Elimination of illicit connections and illicit discharges.

(a) Any owner or tenant of a property or premises where an illicit connection and/or discharge is located shall be required, at such person's expense, to eliminate the illicit connection and/or discharge to the municipal separate storm sewer system.

(b) Any owner or tenant of a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at such person's expense, the BMPs

necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system.

- (c) 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 ordinance.

(9) Inspections.

- (a) The City Administrator or designee or their representative shall have the right to enter onto private properties for the purposes of investigating a suspected violation of this ordinance, or to remove foreign objects or blockages.
- (b) The owner or person in control of any premises, facility, operation, or residence where an illicit discharge or illicit connection is known or suspected shall allow the City Administrator or designee or their representative to have access to and copy at reasonable times, any applicable state or federal permits and associated records related to the known or suspected discharge or connection, and any reports or records maintained in accordance with this ordinance.
- (c) The failure of an owner or person in control of any premises to allow such inspection by the City Administrator or designee or their representative shall be a violation of this ordinance, which violation may be cause for the issuance of a stop work order, withholding of a certificate of occupancy, and/or civil penalties in addition to enforcement actions for illicit discharge.
- (d) The City Administrator or designee may require any person engaging in any activity or owning any property, building or facility (including but not limited to a site of industrial activity) to undertake such reasonable monitoring of any discharge(s) to the stormwater system and to furnish periodic detailed reports of discharges and/or illicit discharges.

Section 8

Enforcement.

- (1) Enforcement authority. The City shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this Ordinance. The City may take any of the following authorized actions and measures in any order as needed to effectuate the purpose of this ordinance:
 - (a) Verbal Warnings – At a 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 shall have 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, Certificates of Occupancy, Development Permits or Other Authorizations – Where a facility is in noncompliance, the City’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 may also use other escalated measures provided under local legal authorities. The City may perform work necessary to improve erosion control measures and collect the funds from the responsible party in an appropriate manner, such as 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 City Administrator or designee when it appears the condition can be corrected by the violator within a reasonable time, which time shall be approved by the City Administrator or designee.
 - (b) Written notice. Whenever the City 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 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. 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 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 may order any person who violates this ordinance 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 finds that any person has violated or continues to violate this ordinance or a permit or order issued thereunder, the City 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 finds that any person has violated or continues to violate this ordinance or any permit or order issued hereunder, the City 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 may suspend, revoke or modify the permit authorizing land disturbance, land development or any other project of the applicant or other responsible person within the Stormwater Program

Service Area. 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 may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

Section 9

Penalties

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

(2) Misdemeanor and Penalties.

1. Misdemeanor-unlawful acts. It shall be unlawful for any person to violate any provision of this ordinance. Any person found to be in violation of the provisions of this ordinance shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00) for each offense. Each day of failure or refusal to comply with any lawful notice to abate violation of this ordinance shall be deemed a separate offense and punishable accordingly.
2. Under the authority provided in Tennessee Code Annotated § 68-221-1106, the City declares that any person violating the provisions of this ordinance may be assessed a civil penalty by the Program of 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 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 Program;

- (f) The amount of penalty established by ordinance 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 Ordinance, or any other actual damages caused by the violation.
 - (b) Two times the costs of the City's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this Ordinance.
- (5) Referral to TDEC. Where the City has used enforcement to achieve compliance with this Ordinance, the City may refer the violation to TDEC.
- (6) Other remedies. The City may bring legal action to enjoin the continuing violation of this ordinance, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.
- (7) 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.

Section 10

Appeals to Enforcement, Violations and Penalties

(1) Enforcement Actions of the City Administrator or designee, except for possible criminal violations which the staff has reported to the appropriate enforcement agency, shall be subject to an appeals process under the initial jurisdiction of the Stormwater Violations Appeals Board. Appealable staff actions specifically include enforcement actions and the assessment of penalties. Written appeals of staff actions must be filed with the City Administrator or designee within thirty (30) days of the actions issuance (TCA § 68-221-1106). Following receipt of a written "Notice of Appeal" from an appellant, the appeals process shall function as follows:

- (a) Administrative Review. An administrative review of all appeals and/or requests for review shall initially be conducted by the City Administrator or designee. The City Administrator or designee shall review the record of the situation and, if the City Administrator or designee is not satisfied that both of the following conditions have been met, the City Administrator or designee shall notify the appellant of the finding and grant the relief or a portion of the relief, as determined by the City Administrator or designee, sought by the appellant:
 - (i) The matter under dispute has been handled correctly by the staff under the applicable rules and procedures of the Stormwater Program.
 - (ii) The matter under dispute has been handled fairly by the staff and the appellant has not, in any way, been treated differently than other dischargers with similar circumstances.
- (b) If the City Administrator or designee determines that both items (i) and (ii) immediately above have been satisfied, the City Administrator or designee shall notify the appellant in writing that no relief can be granted at the staff level and that the appellant is free to pursue the appeal with the Stormwater Violations Appeals Board . Such notification shall include instructions as to the proper procedure for bringing the matter before the Board. Notification shall be made by hand-delivery; verifiable facsimile transmission; e-mail with a verified return request receipt or certified mail, return receipt requested. The City Administrator or designee shall complete the review and issue a decision within 20 calendar days of the receipt of the appeal.

Section 11

Stormwater Violations Appeals Board

(1) Established. There is hereby established a Board of Three (3) members to be known as the "Stormwater Violations Appeals Board."

(2) Composition; terms; filling vacancies.

(a) The Three (3) members of the Board shall initially be appointed by the City Council for staggered terms of one (1) to three (3) years, subject to the approval of the City Council with terms after the initial appointments being for three (3) years. Members shall not serve more than two (2) consecutive three (3) year terms. Members of the Stormwater Violations Appeals Board shall hold no other public office in the City or be employed by the City. The City Council shall appoint one member to represent each of the following:

(i) a representative of a professional consulting field such as an engineer, architect, landscape architect, scientist or educator with technical knowledge of practices regulated by this Ordinance;

(ii) a representative of an industrial or commercial establishment that is regulated by this Ordinance;

(iii) a representative of the building or contracting industry that is regulated by this Ordinance;

(b) Officers. Officers of the Stormwater Violations Appeals Board shall consist of a chairman, vice-chairman, and a secretary. The Board shall elect a Chairman, Vice-Chairman and Secretary from its own membership who shall serve annual terms. The position of the chairman and vice-chairman of the Board shall rotate among the members. After the selection of a new chairman, the former chairman shall serve as vice-chairman for the next succeeding year. Should a member of the Board decline to seek nomination as chairman, the rotation would proceed to the next board member.

(c) Nomination of officers shall be made from the floor. Election of officers shall follow immediately. A candidate receiving a majority vote of the entire membership of the Board shall be declared elected. The officer shall take office immediately and serve for one year (1) year until his successor takes office.

(d) If any member of the Board misses two (2) meetings in succession without an adequate justification, they shall be notified by the Chairman they are being placed on probation. They must attend the next two (2) meetings to be released from probation. If they shall fail to satisfactorily complete a probation or if they are placed

on probation for a second time during a term of office, the Chairman of the Stormwater Violations Appeals Board shall request the City Council to dismiss the Board member and to appoint a new member approved by the City Council. If the Chairman of the Stormwater Violations Appeals Board shall be absent from two (2) meetings in succession without an adequate justification, the Vice-Chairman shall request the City Council to dismiss the Chairman of the Stormwater Violations Appeals Board and select a new Chairman to perform the duties.

(3) General duties of the board.

Appeals rejected by the City Administrator or designee may be brought before the Stormwater Violation Appeals Board if filed in writing with the Stormwater Program within 30 calendar days of the City Administrator's or designee's prior decision (TCA §68-221-1106). Within 30 calendar days of receipt of a notification of an appeal, the Board shall determine if the appeal is to be heard by the Board. Once the appropriate forum for the appeal is decided, a reasonable date and time for hearing of the appeal shall be set. The board will give public notice thereof as well as due notice to the parties in interest and decide the same within a reasonable time. Such date and time shall be within 15 calendar days following the date of the Stormwater Violation Appeals Board initial considerations regarding the appeal.

In addition to any other duty or responsibility otherwise conferred upon the board by this Ordinance, the board shall have the duty and power as follows:

- (a) To hold hearings upon appeals from enforcement orders or enforcement actions of the City Administrator or designee as may be provided under any provision of this ordinance;
- (b) To hold hearings relating to the suspension, revocation, or modification of a land disturbance permit or stormwater discharge permit and issue appropriate orders relating thereto;
- (c) To hold hearings relating to an appeal from a user concerning the accuracy of any penalties imposed upon the user by this ordinance due to violation or other enforcement action;
- (d) To hold such other hearings as may be required in the administration of this ordinance; and
- (e) To make such determinations and issue such orders as may be necessary to effectuate the purposes of this ordinance.

(4) Meetings; quorum.

- (a) The board shall hold meetings as it finds necessary to effectuate the purposes of this section.
 - (b) The order of business at all meetings of the Stormwater Violations Appeals Board shall follow Robert's Rules of Order, more specifically, the provisions that pertain to conducting informal meetings for small boards.
 - (c) Two (2) members of the board shall constitute a quorum, but a lesser number may adjourn a meeting from day to day. Any substantive action of the board shall require two (2) votes, but a majority of the quorum may decide any procedural matter.
 - (d) All meetings of the Stormwater Violations Appeals Board shall be open to the public.
 - (e) The Stormwater Violations Appeals Board may adjourn a hearing or meeting if all applications or appeals cannot be disposed of on the day set, and no further public notice shall be necessary for a continuation of such meeting.
 - (f) Any member of the Board shall be disqualified to act upon a matter before the Stormwater Violation Appeals Board with respect to property in which the member has an interest.
 - (g) The Board shall keep public records of its proceedings.
 - (h) The chairman and secretary shall sign all approved minutes and at the end of the year shall certify that the minutes of the preceding year are a true and correct copy.
- (5) Order of Business. The order of business for a meeting of the Stormwater Violation Appeals Board shall be:
- (a) Call to Order
 - (b) Determination of Quorum
 - (c) Approval of minutes at previous meeting
 - (d) Hearing of cases on the agenda in order of agenda
 1. Consideration of cases
 2. Motions shall be stated by the chairman or his designee before a vote is taken. The names of persons making and seconding motions shall be recorded.
 3. Continued until all cases are heard or until a determination made that all cases cannot be disposed of on the set date.

(e) Other business

(f) Adjournment

(6) Hearing procedure; judicial review.

(a) When to be held. The stormwater violation appeals board shall schedule an adjudicatory hearing to resolve disputed questions of fact and law whenever provided by any provision of this Ordinance at the call of the Chairman. Such date and time shall be within 15 calendar days following the date of the Stormwater Violation Appeals Board initial considerations regarding the appeal.

(b) All meetings of the Stormwater Violations Appeals board shall be open to the public.

(c) Record of hearing. - At any such hearing, all testimony presented shall be under oath or upon solemn affirmation in lieu of oath. The board shall make a record of such hearing, but the same need not be a verbatim record. Any party coming before the board shall have the right to have such hearing recorded steno graphically, but in such event the record need not be transcribed unless any party seeks judicial review of the order or action of the board by common law writ of certiorari, and in such event the parties seeking such judicial review shall pay for the transcription and provide the board with the original of the transcript so that it may be certified to the court.

(d) Subpoenas. - The chairman may issue subpoenas requiring attendance and testimony of witnesses or the production of evidence, or both. A request for issuance of a subpoena shall be made by lodging with the chairman at least ten (10) days prior to the scheduled hearing date a written request for a subpoena setting forth the name and address of the party to be subpoenaed and identifying any evidence to be produced. Upon endorsement of a subpoena by the chairman, the same shall be delivered to the chief of police for service by any police officer of the city, if the witness resides within the city. If the witness does not reside in the city, the chairman shall issue a written request that the witness attend the hearing.

(e) Depositions. - Upon agreement of all parties, the testimony of any person may be taken by deposition or written interrogatories. Unless otherwise agreed, the deposition shall be taken in a manner consistent with Rules 26 through 33 of the Tennessee Rules of Civil Procedure, with the chairman to rule on such matters as would require a ruling by the court under such rules.

(f) Hearing procedure. - The party at such hearing bearing the affirmative burden of proof shall first call his witnesses, to be followed by witnesses called by other parties, to be followed by any witnesses which the board may desire to call. Rebuttal witnesses shall be called in the same order. The chairman shall rule on any

evidentiary questions arising during such hearing and shall make such other rulings as may be necessary or advisable to facilitate an orderly hearing subject to approval of the board. The board, the City Administrator or designee, or his representative, and all parties shall have the right to examine any witness. The board shall not be bound by or limited to rules of evidence applicable to legal proceedings.

(g) Appeal to board of City Administrator's or designee's order. Any person aggrieved by any order or determination of the City Administrator or designee may appeal said order or determination to the board and have such order or determination reviewed by the board under the provisions of this section. A written notice of appeal shall be filed with the City Administrator or designee and with the chairman, and such notice shall set forth with particularity the action or inaction the City Administrator or designee complained of and the relief sought by the person filing said appeal. A special meeting of the board may be called by the chairman upon the filing of such appeal, and the board may in its discretion suspend the operation of the order or determination of the City Administrator or designee appeals from until such time as the board has acted upon the appeal.

(h) Absence of chairman. - The vice-chairman or the chairman pro tem shall possess all the authority delegated to the chairman by this section when acting in his absence or in his stead.

(7) Review of board's decision. Any person aggrieved by any final order of determination of the board hereunder shall have judicial review by common law writ of certiorari.

Section 12

Stormwater Service Utility Fees

(1) Purpose. The purpose of this section is to establish a stormwater utility and associated stormwater utility service charge within the City of Morristown pursuant to the authority granted by Tennessee Code Annotated, § 68-221-11 and for the purpose of providing dedicated funds for stormwater management operations and facilities within the City of Morristown.

(2) Objectives. The objectives of this section include but are not limited to the following:

(a) To establish an equitable approach to fund the City of Morristown's stormwater management services and facilities;

(b) To establish impervious area, which is the most important factor influencing stormwater service requirements and costs posed by properties located throughout the City of Morristown, as the parameter utilized for calculating stormwater service charges;

- (c) To adopt a schedule of service charges upon properties that is related to the burden of stormwater quantity and quality control service requirements and costs posed by properties throughout the City of Morristown.
 - (d) To establish the rules and process for appeals of stormwater service charges.
- (3) Effective date. Stormwater service charges are effective and were employed as of March 18, 2008.
- (4) Exemptions. Except as provided in this section, no public or private property shall be exempt from stormwater utility service charges or receive a credit or offset against such service charges. No exemption, credit, offset, or other reduction in stormwater service charges shall be granted based on the age, tax, or economic status, race, or religion of the customer, or other condition unrelated to the stormwater utility's cost of providing stormwater management services and facilities.
- (5) Exemptions allowed. The following exemptions from stormwater service charges shall be allowed:
 - (a) Undeveloped land as defined in this Ordinance;
 - (b) Railroad tracks; however, railroad stations, maintenance buildings, or other developed land used for railroad purposes shall not be exempt from stormwater service charges;
 - (c) Improved public road rights-of-way that have been conveyed to and accepted for maintenance by the City of Morristown or the State of Tennessee Department of Transportation and are available for use in common for vehicular transportation by the general public;
 - (d) Properties that do not discharge stormwater runoff at any time into or through the stormwater management system, as defined in this Ordinance.
- (6) Unit of Measure. The ERU shall be used as the basis for determining stormwater service charges to single family residential detached dwelling unit properties or classes of single family residential detached dwelling unit properties and all other developed land. Stormwater service charges for multiple dwelling unit properties shall be calculated in the same way as other developed lands.
- (7) Monthly billing and collection. The Witt Utility District, Russellville-Whitesburg Utility District and Alpha-Talbott Utility District, which are henceforth referred to as "other authorized agencies," and the Morristown Utilities Commission shall bill and collect stormwater service charges for the city from all customers who own or rent properties that are subject to the

stormwater utility service charges imposed by this Ordinance. The Morristown Utilities Commission and other authorized agencies shall include such stormwater utility service charges as a designated item on its utility service bills each month, following the same procedure it uses in billing and collecting utility charges.

- (8) Discontinuance of water service for failure to pay stormwater service charges. The Morristown Utilities Commission and other authorized agencies may discontinue water service to any customer for failure to pay the stormwater utility service charge, and shall not connect or re-establish water service for a customer who owes a delinquent stormwater utility service charge until such stormwater utility service charge has been paid.
- (9) Adjustments in charges. The City Administrator or designee shall make adjustments in the stormwater utility service charge for over or under calculation of impervious surfaces.
- (10) City to keep stormwater utility service charges in separate accounts. The City Administrator or designee shall keep the funds received from stormwater utility service charges in a separate enterprise account entitled "stormwater fund."
- (11) Appeals. Any stormwater utility service customer who believes the provisions of this Ordinance have been applied in error may appeal the application or amount of the stormwater utility service charge in the following manner:
 - (a) An appeal must be filed in writing with the City Administrator or designee.
 - (b) Using the information provided by the appellant, the City Administrator or designee or his/her designee shall conduct a technical review of the conditions on the property and respond to the appeal in writing within thirty (30) days.
 - (c) The City Administrator or designee upon review of information provided by the appellant may require the appeal to include a survey or site plan prepared by a surveyor or engineer containing information on the total property area, the impervious surface area (in square feet), and any other features or conditions which influence the hydrologic response of the property to rainfall events.
 - (d) In response to an appeal, the City Administrator or designee may adjust the stormwater service charge applicable to a property in conformance with the general purpose and intent of this Ordinance and shall inform the appellant of such adjustment in writing.
- (12) A decision of the City Administrator or designee which is adverse to an appellant may be further appealed to the City within thirty (30) days from the date of the adverse decision. Notice of the appeal shall be delivered to the city administrator by the appellant, stating the grounds for the further appeal. The city administrator shall issue a decision on the appeal within thirty (30) days. All decisions of the city administrator shall be final and shall be served

on the customer personally or by registered or certified mail. Service shall be based upon the service charge billing address of the customer.

- (13) The appeal process contained in this subsection shall not prevent an appellant from seeking relief in the approved manner and form from a court of competent jurisdiction.

Section 13

Program Fees

- (1) Special Program Fees. The City shall be allowed to charge special Program fees to individuals and organizations for specific activities which require input from the Program Staff. Because of the service-related nature of the special Program fees, they shall be applicable to all stormwater customers located within the Program Service Area, including customers who may be exempt from the Stormwater Utility Fee. Special Program fees shall comply with the following provisions:

(a) Types: Special Program fees may be charged for the following types of services:

- (i) Development Plans Review: Any person or organization with planned construction that will disturb 2,400 square feet or more shall submit development plans to the Program Staff which describe in detail the planned construction's conformance with City requirements for stormwater pollution control at the site of the development. "Disturb" as used in this section shall identify any activity which covers, removes, or otherwise reduces the area of existing vegetation at a site, even on a temporary basis.
- (ii) Erosion Control Plans Review: Any person or organization with planned construction that will disturb 2,400 square feet or more shall submit erosion control plans to the Program Staff which describe in detail the planned construction's conformance with City requirements for erosion control at construction sites. It is understood that the Erosion Control Plans Review fee shall include on-site inspections by qualified member(s) of the Program Staff of the installed erosion control measures as defined by the approved erosion control plans.
- (iii) Erosion Control Non-Compliance Re-Inspection: Should any on-site inspection of installed erosion control measures reveal that the measures have been improperly installed, prematurely removed, damaged, or have otherwise failed and that such deficiency does not pose an imminent threat to the public safety or welfare or the downstream water environment, the City shall inform the responsible party of the deficiency, the responsible party's obligation to bring the installation into compliance with the approved plan, and the assessment of a re-inspection fee. The re-inspection fee shall reimburse the City for the costs

associated with an inspector's returning to a specific site out of the normal inspection sequence.

- (iv) Stormwater Plans Review: Any person or organization with planned construction shall submit stormwater management plans and or as-built plans to the Program Staff which describe in detail the planned construction's conformance with City requirements for post construction stormwater management design, operation and maintenance. It is understood that the Stormwater Plans Review fee shall include on-site inspections by qualified member(s) of the Program Staff of the installed post construction stormwater management system, facility or BMP.
- (v) Other: The City Administrator or designee may from time to time identify other specific activities which warrant a Special Program Fee. No such fee shall be enacted unless it is endorsed by and approved by the Morristown City Council.

Section 14

Existing Locations and Developments

- (1) Requirements for all existing locations and developments. Requirements applying to all locations and developments at which land disturbing activities occurred prior to the enactment of this Ordinance must meet the requirements in place at the time the developer's concept plan was received by the City of Morristown.
- (2) Inspection of existing systems and facilities. The City may, to the extent authorized by state and federal law, establish inspection programs to verify that all permanent stormwater systems, devices or facilities, including those built both before and after the adoption of this Ordinance, are functioning within design limits as established within the Stormwater Program Standard Operating Procedures. These inspection programs may include, but are 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 sources of increased sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with increased discharges of contaminants or pollutants or with discharges of a type more likely than the typical discharge to cause violations of the municipality'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, ground water, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.
- (3) Failure to meet maintenance design or maintenance standards. Any discharge that flows from a stormwater facility or system that is not inspected and maintained in accordance with

this Ordinance shall be an illicit discharge. Upon the failure of the party responsible for maintenance to meet or maintain design or maintenance standards, the City shall notify in writing the party responsible for the stormwater facility or system. Upon receipt of such notice, the responsible person shall cause the failure to be corrected within the time set out by the City in the written notice. In the event correction is not successfully made within that time, among its other sanctions the City may cause the corrections to be made. In such event the person responsible for the stormwater facility shall reimburse City of Morristown for the (2) two times the expense, which expense shall be a lien against the subject real property until paid in full.

(4) Requirements for existing problem locations.

- (a) The City shall provide written notification to the owners of existing locations and developments of specific drainage, erosion, or sediment problems originating from such locations and developments and the specific actions required to correct those problems.
- (b) The notice shall also specify a reasonable time for compliance.
- (c) Should the property owner fail to act within the time established for compliance, the City may act directly to implement the required corrective actions.
- (d) The cost of any action to the City incurred under this section shall be charged to the responsible party. In addition, the responsible party shall be responsible for the proper maintenance and operation of any device, facility or facilities installed as a part of the corrective action. Failure of the responsible party to properly install, operate, and/or maintain the device, facility or facilities installed as part of the corrective action may subject the responsible party to a civil penalty from the City as described in this ordinance.

(5) Corrections of problems subject to appeal. Corrective measures imposed by the City under this section are subject to appeal process as provided under Sections 10 and 11 of this Ordinance.

PASSED ON FIRST READING THIS THE 16TH OF FEBRUARY, 2016.

Gary Chesney
MAYOR

ATTEST:

A.W. Cox
CITY ADMINISTRATOR

PASSED ON SECOND AND FINAL READING THIS THE 1ST OF MARCH, 2016.

Gary Chesney
MAYOR

ATTEST:

A.W. Cox
CITY ADMINISTRATOR