

**ORDINANCE NO. O-2024-014**

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

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

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

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

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

**SECTION 2.** CHAPTER 4 -STORMWATER ORDINANCE

SECTION

- 18-401. General provisions.
- 18-402. Definitions.
- 18-403. Land disturbance permits.
- 18-404. Stormwater Construction SWPPP, Design and Management
- 18-405. Streamside Buffers and Integrity of Existing Storm Water System
- 18-406. Permanent Stormwater System Design and Management
- 18-407. Variances
- 18-408. Illicit Discharge
- 18-409. Enforcement
- 18-410. Penalties
- 18-411 Appeals

**18-401. General provisions.**

- (1). *Purpose.* It is the purpose of this ordinance to:
  - (a) Protect, maintain, and enhance the environment of the City of Sevierville and the public health, safety and the general welfare of the citizens of the city, by controlling discharges of pollutants to the city’s stormwater system and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams,

ponds, wetlands, and groundwater of the city.

- (b) Enable the City of Sevierville to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR 122.26 for stormwater discharges.
  
  - (c) Allow the City of Sevierville to exercise the powers granted in Tennessee Code Annotated §68-221-1105, which provides that, among other powers municipalities have with respect to stormwater facilities, is the power by ordinance or resolution to:
    - (1) Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the municipality, whether or not owned and operated by the municipality;
    - (2) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;
    - (3) Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality;
    - (4) Review and approve plans and plats for stormwater management in proposed subdivisions or commercial developments;
    - (5) Issue permits for stormwater discharges, or for the construction, alteration, extension, or repair of stormwater facilities;
    - (6) Any alteration to existing drainage channels, pipes or other stormwater systems that convey public water is prohibited without authorization from the City. Any alteration must maintain the intended performance of the existing drainage channel.
    - (7) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;
    - (8) Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and
    - (9) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private.
- (2). Administering entity. The City Development Director and or his/her designee, hereafter known as designee shall administer the provisions of this chapter.

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

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

- (1) *ARAP*. Physical alterations to waters of the state require an ARAP. ARAP means a permit issued pursuant to T.C.A. 69-3-108 of the Act, which authorizes the alteration of properties of the state that result from activities other than discharges of wastewater through a pipe, ditch, or other conveyance.
- (2) "Agricultural operations." Activities related to the production of goods through the growing of plants and/or animals.
- (3) "As built plans". Drawings depicting conditions as they were actually constructed.
- (4) "Base flood." The flood having a one percent (1%) chance of being equaled or exceeded in any given year.
- (5) "Best management practices" or BMPs. Physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, that have been approved by the designee, and that have been incorporated by reference into this ordinance as if fully set out therein.
- (6) "Blue line stream." Any stream, creek, lake, pond, or other body of water shown as a blue line on a 7.5 minute USGS quadrangle map.
- (7) "Board of Mayor and Alderman" (BMA). The governing body of the City of Sevierville, Tennessee.
- (8) *Borrow PIT/Fill site*-An excavation from which erodible material (typically soil) is removed to be fill for another site , and shall be considered a construction activity for the purpose of this permit. A borrow pit can also be classified as a fill site. Given the nature of the activity and the potential for erosion, a borrow pit is considered construction activity.

- (9) Buffer or “Water Quality Riparian Buffer”. As used in this ordinance, a strip of undisturbed perennial native vegetation, either original or re-established, that borders streams and rivers, ponds and lakes, wetlands and seeps. Buffer zones are established for the purposes of slowing water runoff, enhancing water infiltration, and minimizing the risk of any nutrients or pollutants from pollutants from leaving the upland area and reaching surface waters.
- (10) “Channel.” A natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.
- (11) *Clearing*. Typically refers to the removal of vegetation and disturbance of soil prior to grading or excavating in anticipation of construction activities. Clearing may also cover a wide variety of uses, many of which may not be regulated within the scope of stormwater management.
- (12) *Common Plan of Development* – Any announcement or documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot. A common plan of development identifies a situation in which multiple areas of disturbance are occurring on contiguous areas. This applies because the activities may take place at different times, on different schedules, by different operators.
- (13) “City engineer.” The city engineer is the person hired by the City of Sevierville to oversee the general engineering activities of the city and shall include his designated representative(s).
- (14) “Community water.” Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the City of Sevierville.
- (15) “Contaminant.” Any physical, chemical, biological, or radiological substance or matter in water.
- (16) “Design storm event.” A hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of stormwater facility.
- (17) “Diameter-at-Breast-Height” (DBH). The diameter, in inches, of a tree trunk as measured four and one-half feet (4 ½’) above the ground. If the tree splits into multiple trunks at or below four and one half feet (4 ½’), the trunk is measured at its most narrow point beneath the split. Diameter-at-breast-height is used as a measurement standard for relatively large trees.

- (18) “Discharge.” Dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter or any pollutant into the municipal separate storm sewer system.
- (19) “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.
- (20) “Erosion.” The removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by anthropogenic activities or effects.
- (21) “Erosion prevention and sediment control plan.” (EPSCP) A written plan (including drawings or other graphic representations) that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.
- (a) “Exceptional and mature tree.” A tree consistent with one (1) of the following characteristics:
- (a) Any hardwood tree which has a DBH of ten inches (10”) or greater, or any evergreen tree which has a DBH of fifteen inches (15”) or greater, and/or any dogwood (*Comus florida*) or redbud (*Cercis Canadensis*) which has a DBH of more than four inches (4”);
  - (b) Any specimen tree; and
  - (c) Any public tree.
  - (d) “Hotspot - Means “priority area”
- (22) “Illicit connections.” Any illegal and/or unauthorized connections to the municipal separate stormwater system whether or not such connections result in discharges into that system.
- (23) “Illicit discharge.” Any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted in this ordinance.
- (24) *Improved Sinkhole* - A natural surface depression that has been altered in order to direct fluids into the hole opening. Improved sinkhole is a type of injection well regulated under TDEC’s Underground Injection Control (UIC) program. Underground injection constitutes an intentional disposal of waste waters in natural depressions, open fractures, and crevices (such as those commonly associated with weathering of limestone).
- (25) *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.

- (26) “Land disturbing activity.” Any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation.
- (27) *Linear Project* – A land disturbing activity as conducted by an underground/overhead utility or highway department, including but not limited to any cable line or wire for the transmission of electrical energy; any conveyance pipeline for transportation of gaseous or liquid substance; any cable line or wire for communications; or any other energy resource transmission ROW or utility infrastructure, e.g., roads and highways. Activities include the construction and installation of these utilities within a corridor. Linear project activities also include the construction of access roads, staging areas, and borrow/spoil sites associated with the linear project. Land disturbance specific to the development of a residential and/or commercial subdivision or high-rise structures is not considered a linear project.
- (28) “Maintenance.” Any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater facility.
- (29) “Maintenance agreement.” A document recorded in the land records that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.
- (30) “Municipal separate storm sewer system” (MS4). The conveyances owned or operated by the city for the collection and transportation of stormwater, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.
- (31) “National pollutant discharge elimination system permit.” A permit issued pursuant to 33 U.S.C. 1342.
- (32) NOC – Notice of Coverage
- (33) NOI – Notice of Intent form

- (34) NOT – Notice of Termination form.
- (35) “Nursery.” A place where young trees or other plants are raised for transplanting, for sale, or for experimental study.
- (36) “Off-site facility.” A structural BMP located outside the subject property boundary described in the permit application for land development activity.
- (37) “On-site facility.” A structural BMP located within the subject property boundary described in the permit application for land development activity.
- (38) “Peak flow.” The maximum instantaneous rate of flow of water at a particular point resulting from a storm event.
- (39) Person or Owner - means any and all persons including any individual, firm or association and any municipal or private corporation organized or existing under the laws of this or any other state or country.
- (40) Permanent Stabilization means that all soil disturbing activities at the site have been completed and one of the three following criteria is met: A perennial, preferably native, vegetative cover with a uniform (i.e., evenly distributed, without large bare areas) density of at least seventy (70%) percent has been established on all unpaved areas and areas not covered by permanent structures, and all slopes and channels have been permanently stabilized against erosion. Equivalent permanent stabilization measures such as the use of riprap; permanent geotextiles; hardened surface materials including concrete, asphalt, gabion baskets or Reno mattresses have been employed. For construction projects on land used for agricultural or silvicultural purposes, permanent stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural or silvicultural use.
- (41) “Planning Commission.” The Sevierville Planning Commission.
- (42) “Priority area.” Also know as an hot spot, means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. Hot spots include, but are not limited to: garages, repair shops, junk yards, detailing shops, car wash waste water, restaurants, commercial properties with large paved parking areas, factories, retail facilities, manufacturing plants, storage lots, maintenance areas, sanitary waste water, effluent from septic tanks and carpet cleaning waste water, laundry waste water/ gray water and household toxics.

- (43) *Quality Assurance Site Assessment* – A documented site inspection to verify the functionality and performance of the SWPPP and for determining if construction, operation, and maintenance accurately comply with permit requirements as presented.
- (44) “Runoff.” That portion of the precipitation on a drainage area that is discharged from the area into the municipal separate stormwater system.
- (45) “Sediment.” Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.
- (46) “Sedimentation.” Soil particles suspended in stormwater that can settle in stream beds and disrupt the natural flow of the stream.
- (47) “Soils Report.” A study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees.
- (48) “Specimen tree.” A particularly impressive or unusual example of species due to its size, shade, shape, age, or any other trait that, in the opinion of the professional responsible for preparing the tree preservation/removal plan, epitomizes the character of the species.
- (49) “Stabilization.” Providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.
- (50) Steep slope - A natural or created slope of 35% grade or greater. Designers of sites with steep slopes must pay attention to stormwater management in the SWPPP to engineer runoff nonerosively around or over a steep slope. In addition, site managers should focus on erosion prevention on the slope(s) and stabilize the slope(s) as soon as practicable to prevent slope failure and/or sediment discharges from the project.
- (51) “Stormwater”. Stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.
- (52) Stormwater Control Measure (SCM) means permanent structure, facility, practice or measure designed to reduce the discharge of pollutants from new development or redevelopment projects.
- (53) “Stormwater management.” The programs to maintain quality and quantity of stormwater runoff to pre-development levels.



- (54) “Stormwater management facilities.” The drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed.
- (55) “Stormwater management plan.” The set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMPs, concepts and techniques intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels.
- (56) *Stormwater Pollution Prevention Plan (SWPPP)* – a written plan that includes site map(s), an identification of construction/contractor activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants. It must be prepared and approved before construction begins.
- (57) “Stormwater runoff.” Flow on the surface of the ground, resulting from precipitation.
- (58) “Structural BMPs.” Devices that are constructed to provide control of stormwater runoff.
- (59) “Surface water.” Waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other watercourses, lakes and reservoirs.
- (60) “Tennessee Code Annotated” (TCA). A compilation of the laws of the State of Tennessee.
- (61) “Tennessee Department of Environment and Conservation” (TDEC). A department of the government of the State of Tennessee.
- (62) “TDEC Manuals.” Sediment and Erosion Control and Permanent Stormwater Management and Design Guidance Manual approved by TDEC for stormwater system design and installation.
- (63) *Turbidity* - The cloudiness or haziness of a fluid caused by individual particles (suspended solids) that are generally invisible to the naked eye, similar to smoke in air.
- (64) *Waste site* – An area where waste material from a construction site is deposited when the material is eroding, such as soil, the site must be treated as a construction site.
- (65) “Watercourse.” A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

- (66) “Watershed.” All the land area that contributes runoff to a particular point along a waterway.
- (67) *Waters/Waters of the State* – Any and all water, public or private, on or beneath the surface of the ground, which are confined within, flow through, or board upon Tennessee or any portion thereof, except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine or effect a junction with natural surface or underground waters.
- (68) *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.
- (69) *Wet weather conveyances*-Man-made or natural watercourses, including natural watercourses that have been modified by channelization, that flow only in direct response to precipitation runoff in their immediate locality and whose channels are above the groundwater table and are not suitable for drinking water supplies; and in which hydrological and biological analyses indicate that, under normal weather conditions is not sufficient water to support fish or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two months. (Rules & Regulations of the State of Tennessee, Chapter 120-4-3-.04(3).

**18-403. Land disturbance permits.**

(1). Land Disturbing Activities Requiring a Permit.

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

- (a) Land disturbing activity, other than agricultural or forestry management activities, that disturb one (1) or more acres of land;
- (b) Land disturbing activity of less than one (1) acre of land if such activity is part of a larger common plan of development that affects one or more acre of land;
- (c) Land disturbing activity of less than one (1) acre of land, if in the discretion of the City of Sevierville such activity poses a unique threat to water, or public health or safety. Projects or developments of less than one acre of total land disturbance may also be required to obtain authorization under this permit if:
  - (1) The City of Sevierville has determined that the stormwater discharge from a site is causing, contributing to or is likely to contribute to a violation of a state water quality violation;
  - (2) The City of Sevierville has determined that a stormwater discharge is, or is likely to be a significant contributor of pollutants to waters of the state, or;

- (3) 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.
  - (4) The creation and use of borrow pits where material is excavated and relocated offsite, and fill sites where materials or earth is deposited by mechanized methods resulting in an increase elevation or grade;
  - (5) If the City of Sevierville becomes aware that construction activity is ongoing, but is not permitted, the designee will notify TDEC of this situation by supplying the following information to the Knoxville Environmental Field Office:
    - (a) Construction project or industrial facility location;
    - (b) Name of the operator or owner;
    - (c) Estimated construction project or size or type industrial activity (including SIC code, if known);
    - (d) Records of communications with the owner or operator regarding permit requirements.
- (2) Building permit. A building permit shall not be issued until the applicant has obtained a land disturbance permit where the same is required by this chapter.
- (3) Exemptions. The following activities are exempt from the permit requirement:
- (a) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
  - (b) Existing nursery and agricultural operations conducted as a permitted main or accessory use.
  - (c) Agricultural activities
  - (d) Any logging or agricultural activity that is consistent with an approved farm conservation plan or a timber management plan prepared or approved by the appropriate federal or state agency which is not part of a larger common plan of development.
  - (e) Additions or modifications to existing single family structures.
  - (f) The owner or developer whose land disturbing activity has been exempted from requirements shall be held responsible for conducting such activity in accordance with the provisions of this ordinance and other applicable laws including responsibility for controlling erosion and sediment where individual lots or sections in a subdivision are being developed by different property owners, all Earth disturbing activities related to the subdivision shall be covered by the approved stormwater pollution prevention plan (SWPPP); Such developments are subject to the terms of the requirements therein, including but not limited to: gravel construction entrance/exits, necessary erosion controls, concrete washing restrictions, etc.
  - (g) Limitations. The City designee shall not grant land disturbance coverage for discharges into waters that are designated as “outstanding national resource waters” (ONRW) as defined by TDEC. An individual permit is required for land disturbance activities and is available from TDEC.

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

- (a) Name of applicant;
- (b) Business or residence address of applicant;
- (c) Name, address and telephone number and email address of the owner of the property of record in the office of the assessor of property;
- (d) Address and legal description of subject property including the tax map and parcel number of the subject property;
- (e) Name, address and telephone number and email address of the contractor and any subcontractor(s) who shall perform the land disturbing activity and who shall be responsible for the implementation of the erosion and sediment control plan.
- (f) A statement indicating the nature, extent and purpose of the land disturbing activity including the size of the area for which the permit shall be applicable and a schedule for the starting and completion dates of the land disturbing activity.
- (g) A copy of the Notice of Coverage (NOC) from the Tennessee Department of Environment and Conservation (TDEC).
- (h) The applicant shall obtain any other environmental permits that may be required from any other government entity. If Aquatic Resource Alteration Permits (ARAP) are required for a site in areas proposed for active construction, the land disturbance permit will not be issued until ARAP applications are submitted and deemed by TDEC to be complete. The treatment and disposal of wastewater (including, but not limited to sanitary wastewater) generated during and after the construction must also be processed. The issuance of the permit may be delayed until adequate wastewater treatment and accompanying permits are issued. The inclusion of any such permits in the application shall not prevent the City from imposing additional development requirements and conditions, commensurate with this chapter other ordinances and regulations of the city, on the development of property covered by those permits.
- (i) Each application shall be accompanied by:
  - 1. A sediment and erosion control plan as described in § 18-404
  - 2. A permanent stormwater management plan as described in § 18-406
- (j) Each application for a land disturbance permit shall be accompanied by payment of land disturbance permit and other stormwater management fees, which shall be set by resolution, adopted by the Board of Mayor and Aldermen (BMA).

(5) Review and approval of application.

- (a) The City designee will review each application for a land disturbance permit to determine its conformance with the provisions of this ordinance and other applicable ordinances and regulations. Within thirty (30) days after receiving an application the city shall provide one (1) of the following responses in writing to the applicant:
  - (1) Approval of the permit application;
  - (2) Conditional approval of the permit application, subject to such

reasonable conditions as may be necessary to secure substantially the objectives of this ordinance, and issue the permit subject to these conditions: or

- (3) Prepare a deficiency notice (letter, email, phone call, etc.) stating conditional information must be provided before the permit can be issued: or
- (4) Denial of the permit application, indicating the reason(s) for the denial.

- (b) If the city designee has granted conditional approval of the permit, the applicant shall submit a revised plan that conforms to the conditions established by the City of Sevierville. However, the applicant shall be allowed to proceed with his land disturbing activity so long as it conforms to conditions established by the city designee.
- (c) No site plan, planned unit development plan, and/or subdivision plat shall be considered as having received final approval until such time as all conditions have been met of the land disturbance permit under the provisions of this ordinance.
- (d) Disclaimer of liability. Neither the submission of a plan under the provisions herein, nor compliance with the provisions of these regulations shall relieve any person from responsibility for damages to any person or property otherwise imposed by law: nor impose any liability upon the City of Sevierville or its representatives for damages to any person or property.

(6) Permit duration.

Every land disturbance permit shall expire and become null and void if the judgement of the City of Sevierville substantial work authorized by such permit has not commenced within one hundred eighty (180) calendar days of issuance-or has not been completed within an amount of time deemed reasonable by the City of Sevierville.

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

(8) Performance bonds.

The city designee may, at his/her discretion, require the submittal of a performance security or performance bond prior to issuance of a permit in order to ensure that the stormwater practices are installed by the permit holder as required by the approved stormwater management plan. The amount of the installation performance security or performance authority shall be the total estimated construction cost of the structural BMPs approved under the permit plus any reasonably foreseeable additional related costs, e.g., for damages or enforcement. The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan. The applicant shall provide an itemized construction cost estimate complete with unit prices, which shall be subject to acceptance, amendment or rejection by the city designee. Alternatively the city designee shall have the right to calculate the

cost estimates for the construction.

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

(9) Transfer of ownership.

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

(b) If the transfer of ownership is due to foreclosure or a permittee filing for bankruptcy proceedings, the new owner 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 under current stormwater regulations.

(c) If a project was previously permitted, but permit coverage was terminated, and subsequent new disturbance occurs, the new operator/ owner/ developer must obtain permit coverage with TDEC and the MS4, as well as pay the appropriate fee for the disturbed acreage.

(10) Inspections

The permit holder shall retain on site and in the appropriate location the following items:

- (a) a rain gauge (or use a reference web/ mobile site) for a record of daily precipitation.
  - (1) a copy of the completed twice weekly inspection reports
  - (2) documentation of the quality assurance inspection report
  - (3) a copy of the site inspector's certification (TDEC Level 1 certificate)

(b) The permit holder shall perform inspections of erosion prevention and sediment control practices on all construction sites as indicated by the current "NPDES Permit for Discharges Associated with Construction Activities" after every rainfall and at least twice weekly and at least 72 hours apart and a copy emailed to the designee weekly or monthly. This standard is the same for "priority construction sites". Based on the results of the

inspections, any inadequate control measures or control measures in disrepair shall be replaced or modified, or repaired as necessary, before the next rain event if possible. Inspections shall be documented.

(c) Quality assurance/Site assessment of erosion prevention and sediment controls shall be done by performing site assessment at a construction site. The site assessment shall be conducted at each outfall involving drainage totaling 10 acres or more (of disturbed and undisturbed acreage combined) or 5 or more acres if draining to waters with unavailable parameters or exceptional Tennessee waters within 1 month of construction commencing. The site assessment shall be performed by individuals with one or more of the following qualifications:

- (1) A licensed professional engineer or landscape architect;
- (2) A Certified Professional in Erosion and Sediment Control (CPESC); or
- (3) A person that has successfully completed the “Level II Design Principles for Erosion Prevention and Sediment Control for Construction Sites” course.

(d) At a minimum, a site assessment should be performed to verify the installation, functionality and performance of the erosion prevention and sediment control measures described in the SWPPP. The site assessment findings shall be documented and the documentation kept with the SWPPP on site and a copy emailed to the designee. The site assessment should be performed with the site inspector, and should include a review and update (if applicable) of the SWPPP. Modifications of plans and specifications for any building or structure, including the design of sediment basin or other sediment controls involving structural, hydraulic, hydrologic or other engineering calculations shall be performed by a licensed engineer or landscape architect and stamped and certified in accordance with state law. The site assessment can take the place of one of the twice weekly inspections.

(e) The designee shall perform inspections on priority construction sites, and other construction sites as warranted by site location and complaints. If the designee finds that the permit holder has failed to properly install, maintain, or use proper structural and/or vegetative erosion and sediment control practices as specified in the erosion and sediment control plan and the post construction design and maintenance plan the permit holder may be subject to a notice of violation order or additional penalties.

(f) The City of Sevierville may require an inspection by a registered Engineer licensed in the State of Tennessee, if deemed necessary, for any erosion and sediment control measure or post construction stormwater management facility to ensure they meet the design standards as described in the Construction Site and Post Construction Site plans.

(g) If the City of Sevierville determines that significant erosion and/or sedimentation is occurring on a graded site despite approved structural and/or vegetative erosion and sediment control practices, the designee 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 erosion and sediment control plan.

(h) Where sites or portions of construction sites have been temporarily stabilized, or runoff is unlikely due to winter conditions (e.g., site covered with snow or ice) or due to extreme drought, such inspection by the permittee only has to be conducted one per month until thawing or precipitation results in runoff or construction activity resumes. Inspection

requirements do not apply to definable areas that have been finally stabilized.

(i) Inspections and maintenance for post construction stormwater facilities shall be performed as required in Section six (6) for post construction design and maintenance.

(11) Appeals

Appeals shall be made to the city's Board of Zoning Appeals as outlined in Section 18-411 of this Ordinance.

**18-404- Stormwater Construction SWPPP, Design and Management**

**(1) Construction, stormwater system design and BMP management**

The following publications (that are incorporated by reference in this Ordinance as if fully set out herein) are hereby adopted as the stormwater design and BMP manual for the City: current TDEC Sediment and Erosion Control Manual and current Tennessee Permanent Stormwater Management and Design Guidance Manual.

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

**(2) General criteria for erosion and sediment controls**

(a) Erosion and sediment controls must be properly selected and installed in accordance with good engineering practices and assure compliance with the terms and conditions of this permit. Effective erosion prevention and sediment controls shall be designed, installed and maintained to minimize and reduce discharge of pollutants to the MS4 system. At a minimum, such controls must be designed, installed and maintained to:

- (1) Control stormwater volume and velocity within the site to minimize soil erosion;
- (2) 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;
- (3) Minimize the amount of soil exposed during construction activity;
- (4) Minimize the disturbance of steep slopes;
- (5) 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;
- (6) Provide and maintain natural buffers around surface waters, direct stormwater to vegetated areas to increase sediment removal and maximize stormwater infiltration, unless infeasible; and
- (7) Minimize soil compaction and, unless infeasible, preserve topsoil.



(8) A description of any discharge associated with industrial activity other than construction stormwater that originates on site and the location of that activity;

(b) A general location map (e.g. portion of a county tax map or similar plat) indicating the locations of existing roads or landmarks, existing land covers, drainage patterns and approximate slopes anticipated after major activities, areas of soil disturbance and limits of disturbance clearly defined, the size and location of major structural and nonstructural controls identified in the plan, the location of areas where stabilization practices are expected to occur, the location of receiving water(s), any Exception Tennessee Waters and/or Waters with Unavailable Parameters, locations of discharges into or immediately up stream of Exception Tennessee Waters and/or Waters with Unavailable Parameters, wetlands, sinkholes and all outfalls where runoff will leave the property shall be identified. Stream(s) receiving the discharge, and storm sewer system(s) conveying the discharge from all site outfalls shall be clearly identified and marked on the map. For linear projects must specify the location of each end of the construction area and all areas to be disturbed.

(c) Commercial and/ or industrial builders that develop separate SWPPPs that cover only their portion of the project and shall also submit a site or plat map that clearly indicates the lot(s) which they are applying for permit coverage and the location of streams, conveyances, storm sewer connections and outfalls leaving the permitted portion of the property;

(d) The erosion and sediment control plan shall accurately describe the total area of the site and clearly defined limits of disturbance by excavation, grading or other activities and the potential for soil erosion and sedimentation problems resulting from land disturbing activity;

(e) Any data describing the soil types and their effects on the quality of any discharge from the site;

(f) Topographic base map

A not less than 1" = 100 feet Topographic base map of the site that extends a minimum of one hundred feet (100) feet beyond the limits of the proposed development with vertical contours at intervals not to exceed five (5) feet and indicates:

(1) Existing surface water drainage including streams, ponds, culverts, ditches, drainage areas, sinkholes, wetlands; and the type, size, elevation of nearest upstream and downstream drainage structures;

(2) Current land use including all existing structures, locations of utilities, roads and easements;

(3) All other existing significant natural and artificial features;

(4) 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;

(5) Proposed structural BMPs and/ or SCMs to reduce pollutants

(6) A written description of the site plan and justification of proposed changes in natural conditions may be required;

(g) The plan shall include detailed drawings of all structural and non-structural controls and stabilization measures which shall be designed to minimize erosion and maximize sediment removal resulting in stormwater discharge associated with the two (2) year, twenty-four (24) hour design storm event as a minimum, either from total rainfall in the designated period or the equivalent intensity as specified on the following website [http://hdsc.nws.noaa.gov/hdsc/pdfs/orb/tn\\_pdfs.html](http://hdsc.nws.noaa.gov/hdsc/pdfs/orb/tn_pdfs.html). These specific details for constructing stabilized construction entrance/exits, concrete washouts, sediment basins for controlling erosion, and road access points, etc., shall be designed to eliminate or keep soils, sediment, and/or debris to a minimum. When land disturbance activities are proposed to discharge into or immediately upstream of Waters of the State, recognized Waters with Unavailable Parameters or 303(d) listed streams impaired for siltation or a known Exception Tennessee Waters, the erosion and sediment control plan shall be designed at a minimum to control the discharge of a (5) five year (24) twenty-four hour storm event along with other additional minimum standards outlined in the current Tennessee Construction General Permit. The plan shall be sealed by an engineer or landscape architect licensed in the State of Tennessee.

(h) Steep Slope or Steep Grade means 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 engineer runoff around or over a steep slope so as not to erode the slope. In addition, site managers should focus on erosion prevention on the slopes and stabilize the slopes as soon as practicable to prevent slope failure or sediment discharges from the project.

(i) For construction, a description of the intended sequence of major activities that disturb soils for major portions of the site (e.g. grubbing, excavation, grading, utilities, sediment basin or detention facilities and infrastructure installation). 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. All projects regardless of size are recommended to be phased to minimize exposure of bare soil and limit sediment discharges. Construction is recommended to be phased to keep the total disturbed area less than fifty (50) acres at any one time. However, if the permittee chooses to disturb more than fifty (50) acres at one time, the permittee shall follow the additional requirements in the current Tennessee Construction General NPDES Permit.

(j) Pre-construction vegetative ground cover shall not be disturbed more than fifteen (15) days prior to 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 earth moving activities begin, and must be constructed and maintained throughout the construction period. Temporary measures may be removed at the beginning of the day but must be replaced at the end of the work day.

(k) Careful identification on the site map of outfall points for stormwater discharges from the site including designated floodways and flood hazards areas associated with the base flood;

(l) For common drainage locations that serve ten (10) or more acres disturbed or five (5) or more acres if draining to Waters with Unavailable Parameters or Exceptional Tennessee waters as well as undisturbed portions of the site and areas adjacent to the site draining through a common outfall, a temporary or permanent sediment basin must be installed. Where an equivalent control measure is substituted for a sediment basin, the equivalency must be justified to TDEC and the City of Sevierville.

(m) Soil stabilization measures shall be initiated within seven (7) days on a portion where construction activity has temporarily or permanently ceased. 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 fifteen (15) days. For steep slopes, temporary stabilization must begin no later than (7) days after construction activity on the slope has temporarily or permanently ceased;

(n) Temporary or permanent soil stabilization shall be accomplished within fifteen (15) days after final grading or other earth work. A permanent vegetative cover shall be established on areas subject to land disturbing activity not otherwise permanently stabilized. Established permanent vegetation should be mature enough to control soil erosion satisfactorily and to survive weather conditions;

(o) Sediment shall be removed from sediment traps, silt fences, sedimentation ponds and other sediment controls as necessary and must be removed when design capacity has been reduced by fifty percent (50%).

(p) If sediment escapes the permitted area, off-site accumulations that have not reached a stream must be removed at a frequency sufficient to minimize off-site impacts (e.g., sediment that has escaped a construction site and collected in a street must be removed so that it does not subsequently wash into storm sewers/ ditches/ conveyances and streams during the next rain event or so that it does not pose a safety hazard to users of roads and streets). Removal of sediment on adjoining properties must be agreed upon by both property owners.

(q) Soil, sediment, and debris brought onto streets, roads and public ways must be removed by the end of the work day by machine, broom, shovel, etc. to the satisfaction of the designee. Any time work is performed on or adjacent to any road in city streets, safety will be the primary consideration. Safety considerations will extend to the travelling public, local bystanders, and work crews. Work crews will strictly adhere to the Manual of Uniform Traffic Control Devices, Part VI, Work Zone Safety. Failure to remove the sediment, soil or debris shall be deemed as a violation of this ordinance.

- (r) Whenever construction access routes intersect paved public and or private roads, provisions must be made to minimize the transport of sediment off site. A gravel designated construction entrance should extend a minimum of fifty (50) feet from the edge of the hard surface of the public road onto the site;
- (s) Public and or private roads should be thoroughly cleaned of any sediment transported off the site by the end of each or more often if deemed necessary;
- (t) In instances where there is more than one SWPPP for a site (multi-jurisdictional SWPPP's, etc.), the permittees must ensure the stormwater discharge controls and other measures are compatible with one another and do not prevent another operator from complying with permit conditions.
- (u) 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. After use, silt fences shall be removed and disturbed areas stabilized. Litter, construction debris and construction chemicals exposed to stormwater shall be picked up or cleaned up prior to the next storm event or before being carried off of the site.
- (v) The following discharges are prohibited:
- (1) Wastewater from wash out of concrete, unless managed by an appropriate control;
  - (2) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials;
  - (3) Fuels, oils or other potential pollutants used in vehicle maintenance and equipment operations and maintenance;
  - (4) Soaps or solvents used in vehicle and equipment washing.
- (w) The SWPPP must include documentation supporting a determination of permit eligibility with regard to waters that have an approved TMDL for pollutant of concern, including:
- (1) identification of whether the discharge is identified, either specifically or generally, in an approved TMDL and any associated wasteload allocations, site specific requirements, and assumptions identified for the construction stormwater discharge;
  - (2) summaries of consultation with the designee and TDEC on consistency of SWPPP conditions with the approved TMDL, and;
  - (3) measures taken to ensure that the discharge of TMDL identified pollutants from the site is consistent with the assumptions and requirements of the approved TMDL, including any specific wasteload allocation that has been established that would apply to the construction stormwater discharge.

### **(3) Other Items Needing Control**

- (a) 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.
- (b) For installation of any waste disposal systems on site, or sanitary sewer or septic system, the 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 or septic system regulations for such systems to the extent these are located within the permitted area.
- (c) 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.
- (d) A description of stormwater sources from areas other than construction and a description of controls and measures that will be implemented at those sites.
- (e) A description of measures necessary to prevent a “taking” of legally protected state or federal listed threatened or endangered aquatic fauna and/ or critical habitat (if applicable). The permittee must describe and implement such measures to maintain eligibility for coverage under this permit.

### **(4) Plans Modification(s)**

- (a) A SWPPP must be modified and updated if any of the following are met:
  - (1) Whenever there is a change in the scope of the project, which would be expected to have a significant effect on the discharge of pollutants to the waters of the state and which has not otherwise been addressed in the SWPPP;
  - (2) When inspections or investigations by site inspectors, local, state or federal officials indicate the SWPP is proving ineffective in eliminating or significantly minimizing pollutants from being discharged, or is otherwise not achieving the general objectives of controlling pollutants in stormwater discharges associated with construction activity.
  - (3) To identify any new permittee (e.g., owner, contractor, sub-contractor) as needed to reflect operational or design control that will implement a measure of the SWPPP;
  - (4) To include measures necessary to prevent a negative impact to legally protected state or federally listed fauna or flora;
  - (5) A TMDL is developed for the receiving water(s) for a pollutant of concern (siltation and/ or habitat alteration due to in-channel erosion).
- (b) In the event the designee finds that a permittee is complying with the SWPPP, but contributing to the impairment of a receiving stream, then the discharger will be notified

by the designee in writing that the discharge is no longer eligible for coverage under the general permit. The permittee may update the SWPPP and implement the necessary changes designed to eliminate further impairment to the stream. If the permittee does not implement the SWPPP changes within a reasonable amount of time, the operator must file an individual permit with TDEC. To obtain the individual permit, the operator must file an individual permit application (EPA 1 & 2F). The project must be stabilized immediately until the SWPPP is updated and the individual permit is issued. Only discharges from earth disturbing activities necessary for stabilization are authorized to continue until the individual permit is issued.

## **18-405- Streamside Buffers and Integrity of Existing Storm Water System**

### **(1) Water quality riparian buffer**

- (a) A stream and other bodies of water: Whenever a development or redevelopment site has a stream or other body of water (pond, stream, creek, lake, wetlands) on such site, flowing through such site, or bordering such site, a buffer of natural vegetation made up of grass, shrubs and/or trees shall be maintained and/or installed as measured from the top of the bank of such stream or body of water. Except as may be in conflict with the intent of this ordinance, provisions of the zoning ordinance, flood damage prevention ordinance, or other ordinances and regulations of the city, buffer areas may be occupied by non-polluting uses and areas such as grassed or landscaped yards, park and picnic areas, utility construction, greenways, walking trails, and/or undisturbed native vegetation. The designee may allow driveway and road construction to occur through a buffer upon finding that the integrity of the buffer will not be compromised. Permits for stream crossings shall require an ARAP permit from TDEC.
- (b) Whenever a development or redevelopment is adjacent to a stream or has a stream flowing through the property designated as unavailable parameters or exceptional Tennessee waters then a buffer zone shall be maintained in accordance with the most current TNCGP and/or the MS4 permit. An undisturbed vegetative buffer (as measured from the top-of-bank) shall be maintained adjacent to all free-flowing waters of the state located including bodies of water such as perennial and intermittent streams, rivers, ponds and lakes and wetlands.
- (c) A 60ft buffer width has been established for sites that contain or are adjacent to a receiving stream designated as unavailable parameters or exceptional Tennessee waters. This 60ft buffer can be established on an average width basis at a project, as long as the minimum width of the buffer is more than 30ft at any measured location.
- (d) In areas of the jurisdiction with available parameters, an undisturbed vegetative buffer of thirty (30) feet can be established on an average basis at a project, if the minimum width of the buffer is no more than fifteen (15) feet at any measured location. Vegetated, preferably native, water quality buffers protect water bodies by providing structural integrity and canopy, as well as stormwater infiltration, filtration and evapotranspiration.

Buffer zones are not primary sediment control measures and should not be relied upon as such.

**(2) Equivalent measures to the buffer**

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

**3. Buffer Variance**

City of Sevierville may allow a variance to the water quality buffer requirements. When a variance is allowed by the City, mitigation must be at least as protective of the natural resources and the environment as the undisturbed buffer. A determination that standards cannot be met may not be based solely on the difficulty or cost associated with implementation. If it is infeasible to provide an undisturbed naturally vegetated buffer of any size between the disturbed portion of the site and any waters of the state, sediment and erosion controls certified by a TN licensed professional engineer to achieve the equivalent sediment load reduction as an undisturbed naturally vegetated, may be implemented on approval by the City designee.

**4. Buffer Exception**

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

**18-406 Permanent Stormwater System Design and Management**

**Stormwater management plan requirements.** Permanent stormwater system designs shall seek to maintain pre-development conditions through the use of structural and non-structural SCMs described in the TDEC Sediment and Erosion Control Manual and the Permanent Stormwater Management and Design Guidance Manual noted in 18-406. The design plan shall incorporate

ways to minimize the percent of impervious surfaces after development, protect sensitive areas such as wetlands and riparian areas. It shall include structural SCMs that provide infiltration and storage and inspection and maintenance plans for facilities. The stormwater management plan shall include sufficient information to allow the designee 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. All site designs shall control the peak flow rates of stormwater discharge associated with the one (1) year, two (2) year, five (5) year, and ten (10) year, (25) year NRCS Type II twenty-four (24) hour design storm frequency and reduce the generation of post construction stormwater runoff to pre-construction quantities. To accomplish this goal, the stormwater management plan shall include the following:

**(1) Topographic base map**

Refer to Section 18-404 of this Ordinance.

**(2) Calculations:** Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in the SCM manual. All site designs shall control the peak flow rates of stormwater discharge associated with the one (1) year, two (2) year, five (5) year, ten (10) year, and twenty-five (25) year NRCS Type II twenty-four (24) hour design storm frequency and reduce the generation of post construction stormwater runoff to pre-construction quantities.

**(3) 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 Permanent Stormwater Management and Design Guidance Manual. Such calculations shall include:

- (a) A description of the design storm frequency, duration, and intensity where applicable;
- (b) Time of concentration;
- (c) Soil curve numbers or runoff coefficients including assumed soil moisture conditions;
- (d) Peak runoff rates and total runoff volumes for each watershed area;
- (e) Infiltration rates, where applicable;
- (f) Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;
- (g) Flow velocities;
- (h) Data on the increase in rate and volume of runoff for the design storms referenced in the BMP manual; and
- (i) Documentation of sources for all computation methods and field test results.
- (j) An estimate of the runoff coefficient of the site after construction activities is completed. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The location, size and layout of proposed storm water and sedimentation control improvements are required. The plan must address the adequacy of the outfalls from the development to accept post-construction run-off and the measures used to prevent scouring of waterways and drainage areas off-site.



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

(l) For projects discharging to waters with unavailable parameters by sediment or habitat alteration due to in-channel erosion, the SWPPP shall include a description of measures that will be installed during the construction process to control pollutants and any increase in the volume of stormwater discharges that will occur after construction operations have been completed. For steep slopes sites, the SWPPP shall also include a description of measures that will be installed to dissipate the volume and energy of the stormwater runoff to pre-development levels.

(m) Velocity dissipation devices shall be placed at discharge locations and along the length of any outfall channel to provide a non-erosive velocity flow from the structure to the receiving stream so that the natural physical and biological characteristics and functions of the stream are maintained and protected (e.g., there should be no significant changes in the hydrological regime of the receiving water). The SWPPP shall include an explanation of the technical basis used to select the velocity dissipation devices to control pollution where flows exceed pre-development levels. The Tennessee Erosion and Sediment Control Handbook provides measures that can be incorporated into the design or implemented on site to decrease erosive velocities. An Aquatic Resources Alteration Permit (ARAP) may be required if such velocity dissipation devices installed would alter the receiving stream and- or its bank.

(n) At the discretion of the designee detention may not be required in the following situations:

(1) The project site discharges stormwater runoff directly into the West Prong of the Little Pigeon River, East Prong of the Little Pigeon, Little Pigeon River, or French Broad River without flowing through a named creek/stream, through a public drainage system, or across a downstream property boundary.

(2) Stormwater detention for a project site is either unwarranted or impractical. The developer must submit complete hydrologic and hydraulic computations to support this conclusion. Typically, this might occur in the very lowest downstream reaches of a major watershed, if it can be proved that undetained stormwater should be discharged quickly to avoid the peak discharge timing for the entire watershed. The hydrologic analysis should include more than one representative downstream location for comparing hydrographs.

(3) Even if stormwater detention is waived for the above two situations, the site development must still provide water quality treatment for the runoff. See Section 18-406 of this Ordinance;

**(4) Detention** of stormwater shall be required if there is to be a net increase in runoff following development (or redevelopment), for sites one acre or larger; or, if the site will contain one-half (1/2) acre or more of impervious area (driveways, parking lots, sidewalks, patios, roofs) following development (or redevelopment). Where a detention pond or retention pond, and related equipment and facilities are designed and intended to provide stormwater management

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

**(5) 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.

Instances in which pipes pass through an earthen berm, special care shall be taken to properly compact soils and, if necessary, install anti-steep collars to remain stable and as water tight as possible. For infiltration and water quality treatment, area shall be indicated in the design and protected during construction where compaction shall be avoided and/or soils amended to promote infiltration.

**(6) The Permanent Stormwater Standards for Water Quality Treatment**

All new and redevelopment projects are to be designed to reduce pollutants from post construction runoff to the maximum extent practicable. For design purposes, total suspended solids (TSS) may be used as the indicator for the reduction of pollutants. Permanent stormwater control measures (SCMs) shall be designed by a registered engineer of a registered landscape architect to reduce pollutants through management practices, control techniques and systems implemented to the maximum extent practicable.

(a) SCMs must be designed to provide full treatment capacity within 72 hours following the end of the preceding rain event for the life of the new development or redevelopment project. Engineers are encouraged to use a variety of innovative control measures, but the designee has the right to refuse the design plan.

(b) The water quality design storm is a 1 year/24hour storm event as defined by Precipitation-Frequency Atlas of the United States. Atlas 14, Volume 2, Version 3.0, U.S. Department of Commerce, National Oceanic and Atmospheric Administration (NOAA) or its digital equivalent. The water quality treatment volume (WQTV) is a portion of the runoff generated from impervious surfaces excluding uncontaminated roof runoff. SCMs must be designed at a minimum to achieve an overall treatment efficiency of 80% TSS removal from the WQTV. The quantity of the WQTV depends on the type of treatment provided as established in the following:

Water Quality Treatment Volume and corresponding SCM Treatment Type for 1yr/  
24hr design storm.

<p><u>SCM treatment type</u> Infiltration, evapotranspiration, transpiration and/or reuse</p>	<p><u>WQTV</u> runoff generated from the first 1inch of the design storm</p>	<p><u>Examples</u> Include but are not limited to bioretention, stormwater wetlands, and infiltration systems</p>
<p><u>SCM treatment type</u> Biologically active filtration with an underdrain</p>	<p><u>WQTV</u> Runoff generated from the first 1.25 inches of the design storm</p>	<p><u>Examples</u> To achieve biologically active filtration, SCMs must provide a minimum of 12 inches of internal water storage</p>
<p><u>SCM treatment type</u> Sand or gravel filtration, settling ponds, extended detention ponds, and wet ponds</p>	<p><u>WQTV</u> Runoff generated from the first 2.5 inches of the design storm or the first 75% of the design storm whichever is less</p>	<p><u>Examples</u> Include but are not limited to sand filters, permeable pavers, and underground detention systems. Ponds must provide forebays comprising a minimum of 10% of the total design storm volume. Existing regional detention ponds are not subject to the forebay requirement.</p>
<p><u>SCM treatment</u> Hydrodynamic separation, baffle box settling, other flow-through manufactured devises (MTDs) and treatment trains using MTDs</p>	<p><u>WQTV</u> Maximum runoff generated from the entire design storm</p>	<p><u>Examples</u> Flow-through MTDs must provide an overall treatment efficiency of at least 80% TSS reduction</p>

(c) Treatment Train Calculations

(1) Treatment trains using MTDs must provide an overall treatment efficiency of a least 80% TSS reduction utilizing the following formula:

$$R=A+B-(A \times B)/100$$

R= total TSS percent removal from application of both SCMs

A=the TSS percent removal rate applicable to the first SCM and,

B= the TSS percent removal rate applicable to the second SCM.

TSS removal rates for MTDs must be evaluated using industry-wide standards. TSS removal rates for other SCMs must be from published reference literature.

(2) Treatment Trains not using MTDs -

Treatment trains using infiltration, evaporation, transpiration, reuse, or biologically active filtration followed by sand or gravel filtration, settling ponds, extended detention ponds or wet ponds may subtract the treated WQTV of the upstream SCMs from the WQTV of the downstream SCMs.

(d) The permanent stormwater management program may allow for a reduction of the WQTV for a new development or redevelopment project up to 20% for any one of the following conditions, and up to a total maximum of 50% for a combination of the following conditions:

(1) Redevelopments projects (including, but not limited to brownfield redevelopment),

(2) Vertical Density of at least 18 units per acre; and,

(3) There may be a reduction of the WQTV in three areas of the MS4.

- Karst - The current practice is to mimic predevelopment runoff rate by limiting or in some cases denying alterations to karst areas. Stormwater runoff is then routed through a detention pond to allow discharge into the karst feature at the same rate of runoff as predevelopment.
- Critical slopes - Critical slope development or redevelopment occur in slopes greater than 35% grade. The soils are normally not conducive to infiltration. Efforts should be made to limit the amount of disturbance to allow natural vegetation to absorb predevelopment rates of runoff from sheet flow.
- Flood plains – To treat and discharge or infiltrate into or adjacent to streams with mapped 100year flood plain areas would be seen as holding and possibly increasing runoff at or near peak flood conditions. Therefore, certain water bodies may not be required to detain runoff or meet the WQTV treatment volumes. FEMA 100 year flood plain data may be obtained from GIS software.

(e) The City designee may develop a mitigation program and/or system of payment into a public fund in lieu of water quality treatment. TDEC has set the rate at a minimum

of 1.5 times the portion of the WQTV not treated on site. The City designee (if mitigation/ payment in lieu of rules are adopted) shall identify mitigation projects and any payment amount must be sufficient to fund the design, installation and maintenance of the mitigation measures.

**(7) Inspection of stormwater management facilities**

- (a) Periodic inspections of facilities shall be performed by the City designee.
- (b) In order to ensure that all permanent stormwater SCMs are operating correctly and being properly maintained, the City designee shall, at a minimum, require owners or operators of stormwater management practices to:
  - (c) Perform routine inspections to ensure that the SCMs 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.
  - (d) Perform comprehensive inspections of all stormwater management facilities and practices. These SCMs shall be inspected at least once every five (5) years, by the permittee, a professional engineer or landscape architect, or other qualified professional familiar with implacable SCM design and maintenance requirements.. Comprehensive inspections shall include:
    - (1) Facility type
    - (2) Inspection date
    - (3) Latitude and longitude and nearest street address
    - (4) SCM owner information (e.g. name, address, phone number, fax, and email);
    - (5) A description of SCM 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
    - (6) Photographic documentation of SCMs
    - (7) Specific maintenance items or violations that need to be corrected by the SCM owner along with deadlines and re-inspection dates
    - (8) City of Sevierville shall maintain documentation of these inspections.

**(8) As Built Requirements**

An as built survey of the stormwater system, stormwater management facilities or SCM(s) and a written certification by a registered professional engineer licensed in Tennessee describing the SCM(s) have been installed in accordance with the approved plan and other applicable provisions of this ordinance shall be submitted to the City designee before final approval will be granted. The as built shall be included in the Final Plat. The City designee may make a final inspection of the SCM(s) to ensure that it is in compliance with the approved plan and the provisions of this ordinance. The as built,

stormwater management plan and the stormwater long term maintenance agreement shall be recorded with the Sevier County Register of Deeds before the City will release the bond/letter of credit and/or terminate the Land Disturbance Permit.

**(9) Landscaping and stabilization requirements**

(a) Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall be re-stabilized by vegetative or structural controls. The following criteria shall apply to re-vegetation efforts:

(1) Re-seeding must be done with a perennial cover crop accompanied by placement of straw mulch, erosion control, or its equivalent;

(2) 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 plantings are established and are capable of controlling erosion;

(3) Any area of re-vegetation must exhibit survival of a cover crop throughout the year immediately following re-vegetation. Re-vegetation must be repeated in successive years until the survival for one (1) year is achieved;

(4) Retaining walls, gabions, riprap and other proposed structural stabilization measures shall be installed using approved engineering and long-term maintenance.

(5) Stands of existing trees that 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. Trees to be protected must be identified as “areas not to be disturbed” shown on the construction plans as well as the permanent stormwater plan.

(6) In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain how the site will be stabilized after construction, who will be responsible for the maintenance of vegetation at the time and what practices will be employed to ensure that adequate vegetative cover is preserved.

**(10) Maintenance and Repair Plan:**

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

maintenance procedures shall be included in the plan. A permanent elevation benchmark shall be identified in the plans to assist in the periodic inspection of the facility. A maintenance plan shall be submitted by the design engineer and to be recorded as an attachment with the as built and maintenance agreement by the City designee. This maintenance plan shall include but is not limited to:

- (a) A brief description of the type of the SCM and/or other permanent stormwater features,
- (b) An inspection schedule, and
- (c) Maintenance procedures.

**(11) Maintenance Easements:**

The applicant must ensure access to the site for the purpose of inspection and repair by securing all the maintenance easements needed. These easements must be binding on the current property owner and all subsequent owners of the property and must be properly recorded in the Register of Deeds Office for Sevier County Tennessee. Easements shall include all the areas where stormwater treatment and structural components of any stormwater facilities and conveyances are located and include a 10ft maintenance easement buffer around such facilities on the final plat. The easement shall include a minimum of 10ft of accessible ingress/egress to the street right of way.

**(12) Maintenance Agreement**

The owner of property to be served by a stormwater/ water quality facility must record a maintenance agreement that shall be recorded before a Final Plat can be approved. A deed restriction shall state the Home Owners Association/ Property Owner's Association or other mechanism to be responsible for maintenance of the said facility or facilities and be binding on the current property owner and all subsequent property owners. The Maintenance Agreement will made be available to the City of Sevierville.

- (a) The maintenance agreement shall:
  - (1) Assign responsibility for the maintenance and repair of the stormwater facility to the owner of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.
  - (2) Provide for a periodic inspection by the property owner for the purpose of documenting maintenance and repair needs and ensure compliance with the purpose and requirements of this ordinance. The property owner will arrange for this inspection to be conducted by a registered professional engineer licensed to practice in the State of Tennessee who will submit a sealed report of the inspection to the City designee It shall also grant permission to the city to enter the property at reasonable times and to inspect the stormwater facility to ensure that it is being properly maintained.
  - (3) Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, grass cuttings and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other

stormwater facilities. It shall also provide that the property owner shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the BMP manual.

(4) Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the City designee

(5) Provide that if the property is not maintained or repaired within the prescribed schedule, the City designee shall perform the maintenance and repair at its expense, and bill the same to the property owner. The maintenance agreement shall also provide that the City designee's cost of performing the maintenance shall be a lien against the property, shall run with the land and be recorded in the Register of Deeds Office for Sevier County Tennessee.

(b) The City designee shall have the discretion to accept the dedication of any existing or future stormwater management facility, provided such facility meets the requirements of this ordinance, and includes adequate and perpetual access and sufficient areas, by easement or otherwise, for inspection and regular maintenance. Any stormwater facility accepted by the City designee must also meet the City designee's construction standards and any other standards and specifications that apply to the particular stormwater facility in question.

(1) Sediment and Erosion Control Plans: The applicant must prepare a sediment and erosion control plan for all construction activities that complies with Section 18-404.

(2) Buffer Plans: The applicant must prepare a buffer plan for all streams, rivers, creeks, ponds, lakes, or other bodies of water that complies with Section 18-405

### **(13) Records of installation and maintenance facilities**

Parties responsible for the operation and maintenance of a storm water management facility shall make records of the installation of the storm water facility and of all maintenance and repairs to the facility and shall retain the records for at least two (2) years. These records shall be made available to the City designee during inspection of the facility and at other reasonable times upon request.

### **(14) Failure to meet or maintain design or maintenance standards**

If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this ordinance, the City of Sevierville Planning and Development designee, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the City of Sevierville. The City designee shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall maintain and repair the facility in an approved manner within an amount of time deemed necessary by the City of Sevierville Planning and Development designee in the event



that corrective action is not undertaken within that time, the City of Sevierville Planning and Development designee may take necessary corrective action. The cost of any action by the City of Sevierville Planning and Development designee under this section shall be charged to the responsible party or charged as a tax lien on the property.

### **18-407 Variances**

The City of Sevierville may waive or modify requirements for Section 18-404, 18-405 or 18-406 of this Ordinance that are deemed inappropriate or too restrictive for site conditions by granting a variance:

- (a) At the time of plan submission, an applicant may request a variance to become part of the final plan. The applicant must set forth the reasons for requesting a variance in writing. Specific variances must be documented on the final plan.
- (b) During construction the permit holder may request amendments to the final plan. The amended plan shall be reviewed pursuant to the procedures set forth in Sections 18-404 and 18-406. Until such time as the amended plan is approved by the designee the land disturbing activity shall not proceed except in accordance with the original plan. A response in writing or plan review approving or disapproving such request shall be given within five (5) working days.
- (c) Without written approval, no amendment shall be considered valid.
- (d) In order to receive a variance, the applicant must demonstrate to the satisfaction of the City of Sevierville that the variance will not lead to any of the following conditions:
  - (1) Deterioration of existing culverts, bridges, dams and other structures;
  - (2) Degradation of biological functions or habitat;
  - (3) Accelerated streambank or streambed erosion or siltation;
  - (4) Increased threat of flood damage to public health, life and property;
- (e) An appeal when a variance is denied shall go before the Board of Zoning Appeals.

### **18-408 Illicit Discharge**

**(1) Scope** This section shall apply to all water generated on developed or undeveloped land entering the municipality's separate storm sewer system.

**(2) Prohibition of illicit discharges** No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater. The commencement, direction or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited.

**(3) Exceptions:** Subject to these provisions of the following, uncontaminated discharges shall not be in violation unless found to be a major contributor of pollutants to the MS4 system:

- (a) Uncontaminated discharges from the following sources:
  - (1) Water line flushing or other potable water sources,
  - (2) Landscape irrigation or lawn watering with potable water,
  - (3) Diverted stream flows,
  - (4) Rising ground water,
  - (5) Groundwater infiltration to storm drains,
  - (6) Pumped groundwater,

- (7) Foundation or footing drains,
- (8) Crawl space pumps,
- (9) Air conditioning condensation,
- (10) Springs,
- (11) Non-commercial washing of vehicles,
- (12) Natural riparian habitat or wet-land flows,
- (13) Swimming pools (if dechlorinated),
- (14) Firefighting activities,
- (15) Any other uncontaminated water source.
- (16) Discharges from potable water sources,
- (17) Individual noncommercial car washing or car washing of less than two (2) consecutive days in duration for a charity, nonprofit fund raising, or similar noncommercial purpose,
- (18) Incidental street wash water from street cleaning equipment designed for cleaning paved surfaces and limiting waste discharges,
- (19) Street de-icing for public safety,
- (20) Any activity authorized by a valid NPDES permit.

**(4) Discharges specified** in writing by the designee as being necessary to protect public health and safety.

**(5) Dye testing** is an allowable discharge.

**(6) Right of Testing**. The designee may require the owner or operator of any facility engaging in any activity where an illicit discharge is occurring to undertake such reasonable monitoring of any discharges to the Municipal Separate Storm Sewer System (MS4) and to furnish periodic detailed reports of such discharges.

**(7) Third Party Testing** - All third party testing and analysis should be in accordance to TDEC protocols.

**(8) Prohibition of illicit connections**.

(a) The construction, use, maintenance or continued existence of illicit connections to the separate municipal storm sewer system is prohibited.

(b) 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.

**(9) Reduction of stormwater pollutants** by the use of best management practices. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMP's necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

**(10) Notification of spills**.

(a) 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 stormwater, the municipal

separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release.

(b) Any spill of any hazardous material shall be reported to emergency response agencies immediately. Cleanup shall be as specified by the emergency response agencies. Notification of stormwater personnel of an active spill shall be at the discretion of emergency responders. Documentation of the cleanup of hazardous spills will be confined to the response report from emergency responders. Follow up investigations and verification of cleanup will be the responsibility of stormwater personnel.

(c) If the discharge of non-hazardous materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall submit to the designee within fourteen (14) calendar days of knowledge of a release a written description of the release, the circumstances leading to the release and the date of the discharge. In addition, the Permittee must identify measures to prevent the re-occurrence of such discharge, as well. Such records shall be retained for at least three (3) years.

**(11) Corrective Action Plan** If the elimination of an illicit discharge will take more than fourteen (14) calendar days from the notification of the discharge, a corrective action plan shall be required to be submitted to the MS4 for concurrence.

(12) **Priority Site/Hot Spots** The discharge of hazardous substances or oil into the municipal storm sewer system from hot spots including, but not limited to: garages, repair shops, junk yards, detailing shops, car washes, restaurants (where grease traps are maintained outside the building), commercial properties with large paved parking areas, factories, retail facilities, manufacturing plants (such as concrete plants, asphalt plants, etc.), storage lots, maintenance areas, sanitary waste water, effluent from septic tanks and alternative sewer systems, carpet cleaning waste water, laundry waste water/ gray water and household toxics etc., shall be prohibited.

The designee may, when conditions warrant, conduct inspections to verify that existing stormwater management facilities are functioning within design limits. These inspections shall be based on violations and complaints which identify developments, businesses, or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the municipalities NPDES storm water permit. Inspections may include, but are not limited to; reviewing maintenance and repair records, sampling discharges, surface water, groundwater, and material or water in drainage control facilities, and evaluating the condition of drainage control facilities and other BMPs.

This section also requires these and other businesses and facilities already in operation within the boundaries of the City of Sevierville must maintain proper storage and disposal practices of hazardous substances and oil.

## **18-409 Enforcement**

### **(1) Enforcement authority**

(a) The designee shall have the authority to employ progressive enforcement actions provided in this ordinance.

(b) Enforcement procedures follow a standardized progression of events that are collectively known as a force continuum enforcement protocol to be applied by the City of Sevierville designee or any other authorized agents. Each enforcement action shall be based on its own merits/ consideration, thus any and all steps of this continuum may be bypassed based on the

- (1) discretion of the inspector, designated employee(s),
- (2) egregiousness of violation,
- (3) amount of discharge,
- (4) damage to public and/ or private property,
- (5) number of previous violations,
- (6) any other pertinent circumstances, etc.

### **(2) The establishment of this continuum shall include but not be limited to:**

- (a). Site inspection
- (b). Verbal Warning or Compliance Hearing
- (c). Follow up inspection
- (d). Notice of Violation or Consent Order
- (e). Cease and Desist Order or Stop Work Order
- (f). Civil Penalty and/or damage assessment
- (g). Suspension or Revocation of Permit

### **(3) Enforcement Orders**

(a) Verbal Warning or Compliance Hearing. The Authority may order any person who violates this resolution to appear at a Compliance Hearing. This Hearing notification shall specify the time and place for the meeting. designee shall state a time limit for installation, repairs and corrective actions to bring the site into compliance with the plan as permitted.

(b) Notice of Violation or Compliance Order of whenever the designee or other agent determines that any permittee or any other person or entity discharging storm water has violated or is violating this Ordinance or a permit or order herein, the designee or agent may serve upon such person or entity written notice of the violation. This Notice of Violation shall contain such requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installment of devices, self-monitoring, and management practices. The Notice may also direct that, following a specific time period, adequate structures or devices be installed or procedures implemented and properly operated. Within ten (10) days of this Notice, a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the designee. 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 designee or his designee(s) is (are) empowered to enter 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 pursuant to other sections of this Ordinance.

(d) Compliance Order. When the designee finds that any person has violated or continues to violate this ordinance or a permit or order issued thereunder, he or his designee(s) may issue an order to the violator directing that, following a specific time period, adequate structures, devices, be installed 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.

(e) Cease and Desist Orders. When the designee finds that any person has violated or continues to violate this ordinance or any permit or order issued hereunder, the designee may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

- (1) Comply forthwith; or
- (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(f) Referrals to TDEC for enforcement – Where the designee has used “progressive enforcement” to achieve compliance within this ordinance, and in the judgment of the designee such enforcement actions have not been successful, the designee may refer the violation to TDEC at the local EFO, of this situation. In making such referrals, the designee must provide, at a minimum, the following:

- (1) Construction project or industrial facility location;
- (2) Name of the operator or owner;
- (3) Estimated construction project size or type of industrial activity (including Standard Industrial Classification Code, SIC code, if known);
- (4) Records of communications with the owner or operator regarding the violation, including at least two follow-up inspections, two warning letters or notices of violation, and any response from the owner or operator.

(g) Where there are outstanding or unpaid civil penalties, pending civil penalty appeals, and/or appeals in any governing body pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8, the permit holder nor his/ her representative(s) may receive any additional land disturbance permit until such time as all civil penalties have been paid in full and all matters have been adjudicated.

**(4) Conflicting standards.** Whenever there is a conflict between any standard contained in this ordinance adopted by the municipality under this ordinance, and in the current TDEC

Sediment and Erosion Control Manual and Tennessee Permanent Stormwater Management and Design Guidance Manual, the strictest standard shall prevail.

**18-410. Penalties.**

- (1) Violations. Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the City of Sevierville, shall be guilty of a civil offense.
- (2) Penalties. Under the authority provided in Tennessee Code Annotated § 68-221-1106, the city declares that any person violating the provisions of this chapter may be assessed a civil penalty by the City of Sevierville not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.
- (3) Measuring civil penalties. In assessing a civil penalty, the City of Sevierville shall be considered:
  - (a) The harm done to the public health or the environment;
  - (b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
  - (c) The economic benefit gained by the violator;
  - (d) The amount of effort put forth by the violator to remedy this violation;
  - (e) Any unusual or extraordinary enforcement costs incurred by the city;
  - (f) The amount of penalty established by ordinance or resolution for specific categories of violations; and
  - (g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.
  - (h) Repeat offenses
- (4) Recovery of damages and costs. In addition to the civil penalty in subsection (2) above, the city may recover:
  - (a) All damages proximately caused by the violator to the city, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this chapter, or any other actual damages caused by the violation.
  - (b) The costs of the city's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this chapter.
- (5) Other remedies. The city may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.
- (6) In addition to other remedies The City shall have the power to file complaints in Sevier County Chancery Court for injunctions and other appropriate relief to abate the violation of this ordinance or the provisions of any permit issued thereunder.
- (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.

### **18-411 Appeals.**

A person or entity incurring a civil penalty or a damage assessment may appeal to the city's Board of Zoning Appeals.

(1) If appeal is sought, application for appeal shall be made, "within thirty (30) days after a civil penalty or damage assessment is served in any manner authorized by law" §TCA 68-221-1106(d).

(2) The failure to initiate an appeal "within thirty (30) days after the damage assessment or civil penalty is served in any manner authorized by law, the violator shall be deemed to have consented to the damage assessment or civil penalty and it shall become final" §TCA 68-221-1106(d). The City may apply to Sevier County Chancery Court for a judgement and seek execution of such judgement.

(3) A suspension or revocation of a permit shall be first appealed to the designee having issued the permit. An appeal may then be made to the city's Board of Zoning Appeals.

(4) The appellant shall, at the time of application for appeal, remit the appropriate appeals fee set by the City's Planning and Development Department.

(5) §TCA 8-44-103 requires that public notice be made for "...a meeting not previously scheduled by statute, ordinance, or resolution, or for which notice is not already provided by law". The City of Sevierville Planning and Development Department shall give adequate public notice of such meeting. The agenda for the meeting will be made available on the City's webpage.

(6) Upon receipt of an appeal, the city's Board of Zoning Appeals shall schedule a hearing for the appeal within thirty (30) days after receiving the appellant documents from the appropriate city official or at the stated periodic meeting.

(7) Once a ruling has been issued by the city's Board of Zoning Appeals, an appellant who is not satisfied with this ruling may by law file an appeal in any governing body pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8.

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

APPROVED: \_\_\_\_\_  
ROBBIE FOX, MAYOR

ATTEST:

\_\_\_\_\_  
LYNN K. MCCLURG, CITY RECORDER

PASSED ON 1<sup>ST</sup> READING: June 17, 2024

PASSED ON 2<sup>ND</sup> READING: July 22, 2024

PASSED ON 3<sup>RD</sup> READING: August 5, 2024