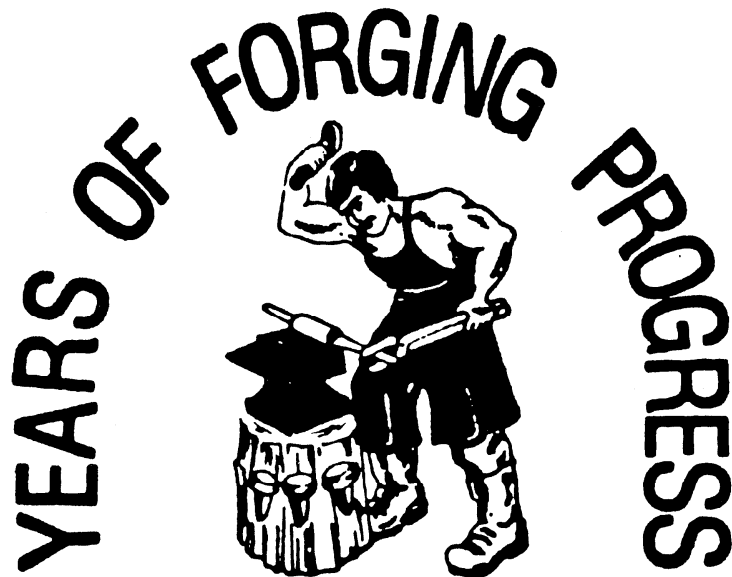


City of

# Pigeon Forge

## STORMWATER ORDINANCE





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**Section 1. General provisions.**

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

- (a) Protect, maintain, and enhance the environment of the City of Pigeon Forge 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 Pigeon Forge 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 Pigeon Forge 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) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;
- (7) Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and
- (8) 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 Pigeon Forge Storm Water Technician shall administer the provisions of this ordinance.

**Section 2. Definitions.** For the purpose of this chapter, the following definitions shall apply:

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

- (1) *Agricultural operations.* Activities related to the production of goods through the growing of plants and/or animals.
- (2) *As built plans* - means drawings depicting conditions as they were actually constructed.
- (3) *Base flood.* The flood having a one (1) percent chance of being equaled or exceeded in any given year.
- (4) *Best management practices* - or *BMPs* are physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, that have been approved by the City of Pigeon Forge, and that have been incorporated by reference into this ordinance as if fully set out therein.
- (5) *Blue line stream.* Any stream, creek, lake, pond, or other body of water shown as a blue line on a 7.5 minute USGS quadrangle map.
- (6) *Board of Mayor and City Commissioners (City Council).* The governing body of the City of Pigeon Forge, Tennessee.
- (7) *Buffer.* As used in this ordinance, an area parallel to the top of the bank of a stream, river, creek, pond, lake, or other body of water and which runs along the length or circumference of a body of water for the purpose of protecting a body of water from non point source pollutants, including eroded soils.
- (8) *Channel* - means a natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.
- (9) *Community water* - means 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 Pigeon Forge.
- (10) *Contaminant* - means any physical, chemical, biological, or radiological

substance or matter in water.

- (11) *Design storm event* - means a hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a stormwater facility.
- (12) *Discharge* - means dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the municipal separate storm sewer system.
- (13) *Easement* - means 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.
- (14) *Erosion* - means 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.
- (15) *Erosion and sediment control plan* - means 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.
- (16) *Hotspot - (priority area)* means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.
- (17) *Illicit connections* - means illegal and/or unauthorized connections to the municipal separate stormwater system whether or not such connections result in discharges into that system.
- (18) *Illicit discharge* - means any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under §3(3).
- (19) *Land disturbing activity* - means 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.
- (20) *Maintenance* - means 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.

- (21) *Maintenance agreement* - means 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.
- (22) *Municipal separate storm sewer system (MS4) (Municipal separate stormwater system)* means the conveyances owned or operated by the municipality 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.
- (23) *National Pollutant Discharge Elimination System permit - or NPDES permit* means a permit issued pursuant to 33 U.S.C. 1342.
- (24) *Off-site facility* - means a structural BMP located outside the subject property boundary described in the permit application for land development activity.
- (25) *On-site facility* - means a structural BMP located within the subject property boundary described in the permit application for land development activity.
- (26) *Peak flow* - means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.
- (27) *Person* - means any and all persons, natural or artificial, including any individual, firm or association and any municipal or private corporation organized or existing under the laws of this or any other state or country.
- (28) *Planning Commission* – The Pigeon Forge Regional Planning Commission.
- (29) *Priority area* - means hot spot as defined in § 2(11).
- (30) *Runoff* - means that portion of the precipitation on a drainage area that is discharged from the area into the municipal separate stormwater system.
- (31) *Sediment* - means 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.

- (32) *Sedimentation* - means soil particles suspended in stormwater that can settle in stream beds and disrupt the natural flow of the stream.
- (33) *Soils Report* - means 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.
- (34) *Stabilization* - means providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.
- (35) *Stormwater* - means stormwater runoff, snow melt runoff, surface runoff, and street wash waters related to street cleaning or maintenance, infiltration and drainage.
- (36) *Stormwater Authority* The stormwater authority created by ordinance or resolution of a City or County to administer the stormwater management ordinance, and other stormwater rules and regulations adopted by the municipality. It shall also be referred to as Stormwater Management.
- (37) *Stormwater management* - means the programs to maintain quality and quantity of stormwater runoff to pre-development levels.
- (38) *Stormwater management facilities* - means the drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed of.
- (39) *Stormwater management plan* - means 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.
- (40) *Stormwater runoff* - means flow on the surface of the ground, resulting from precipitation.
- (41) *Stormwater Technician* – The storm water technician is the person hired by the City of Pigeon Forge to administer the stormwater management program.
- (42) *Stormwater utility* - means the stormwater utility created by ordinance of the city to administer the stormwater management ordinance, and other stormwater rules and

regulations adopted by the municipality.

- (43) *Structural BMPs* - means devices that are constructed to provide control of stormwater runoff.
- (44) *Surface water* - includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other water courses, lakes and reservoirs.
- (45) *Tennessee Code Annotated(TCA)* – A compilation of the laws of the State of Tennessee.
- (46) *TDEC Manuals* current Sediment and Erosion Control and Post Construction manuals approved by TDEC for stormwater system design and installation.
- (47) *Watercourse* - means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.
- (48) *Watershed* - means all the land area that contributes runoff to a particular point along a waterway.

### **Section 3. Land disturbance permits.**

(1). When required.

(a) Every person will be required to obtain a land disturbance permit from the Pigeon Forge Storm Water Technician in the following cases:

- (1) Land disturbing activity, other than agricultural or forestry management activities, that disturb one (1) or more acres of land;
- (2) Land disturbing activity of less than one (1) acre of land if such activity is part of a larger common plan of development that affects one (1) or more acre of land;
- (3) Land disturbing activity of less than one (1) acre of land, if in the discretion of the Pigeon Forge Storm Water Technician such activity poses a unique threat to water, or public health or safety;
- (4) The creation and use of borrow pits.

(2). Building permit. No building permit shall be issued until the applicant has obtained a land disturbance permit where the same is required by this ordinance.

(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 activity not part of a major development scheme that is consistent with an approved farm conservation plan or a timber management plan prepared or approved by the appropriate federal or state agency.
- (e) Additions or modifications to existing single family structures.

(4). Application for a land disturbance permit.

- (a) Each application shall include the following:
- (1) Name of applicant;
  - (2) Business or residence address of applicant;
  - (3) Name, address and telephone number of the owner of the property

- of record in the office of the assessor of property;
- (4) Address and legal description of subject property including the tax reference number and parcel number of the subject property;
  - (5) Name, address and telephone number of the contractor and any subcontractor(s) who shall perform the land disturbing activity and who shall implement the erosion and sediment control plan;
  - (6) 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.
  - (7) Where the property includes a sinkhole, the applicant shall obtain from the Tennessee Department of Environment and Conservation appropriate permits.
  - (8) The applicant shall obtain from any other state or federal agency any other appropriate environmental permits that pertain to the property. However, the inclusion of those permits in the application shall not foreclose the Pigeon Forge Storm Water Technician from imposing additional development requirements and conditions, commensurate with this ordinance, on the development of property covered by those permits.
- (b) Each application shall be accompanied by:
- (1) A sediment and erosion control plan that meets the criteria set forth by the City of Pigeon Forge Subdivision Regulations and the Storm Water Technician
  - (2) A stormwater management plan approved by the City of Pigeon Forge Storm Water Technician
  - (3) 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 of Pigeon Forge City Council.

(5). Review and approval of application.

(a) The Pigeon Forge Storm Water Technician within 30 days (Unless the complexity of the project requires additional time) of receipt will review each application for a land disturbance permit to determine its conformance with the provisions of this ordinance. After the review of an application, the Pigeon Forge Storm Water Technician shall provide one of the following responses:

- (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) Denial of the permit application, indicating the reason(s) for the denial.

(b) If the Pigeon Forge Storm Water Technician has granted conditional approval of the permit, the applicant shall submit a revised plan that conforms to the conditions established by the Pigeon Forge Storm Water Technician. However, the applicant may be allowed to proceed with his land disturbing activity so long as it conforms to conditions established by the Pigeon Forge Storm Water Technician.

(c) No development plans will be released until the land disturbance permit has been approved.

(6). Permit duration.

Every land disturbance permit may expire and become null and void if in the judgment of the Storm Water Technician 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 Storm Water Technician.

(7). Notice of construction.

The applicant must notify the Pigeon Forge Storm Water Technician at least ten (10) working days in advance of the commencement of construction. Inspections of the stormwater management system construction may be conducted by the Pigeon Forge Storm Water Technician.

(8). Performance bonds.

- (a) The Pigeon Forge Storm Water Technician may, at its 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 bond provider shall be responsible to keep the bond in effect until such time the bond is released by the City of Pigeon Forge Storm Water Technician in the event the bond provider allows the bond to expire, the bond provider shall be responsible for the cost of completion of the work required by the permit and be responsible for any damages resulting from non-completion of the work. The amount of the installation performance security or performance bond shall be the total estimated construction cost of the structural BMPs approved under the permit plus any reasonably foreseeable additional related costs, e.g., for damages or enforcement. [Or plus a certain percentage of the total estimated costs.] 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 Pigeon Forge Storm Water Technician. Alternatively the Pigeon Forge Storm Water Technician shall have the right to calculate the cost of construction cost estimates.
- (b) The performance security or performance bond shall be released in full only upon approval of the City of Pigeon Forge Storm Water Technician. Submission of as-built plans and written certification by a registered professional engineer licensed to practice in Tennessee that the structural BMP has been installed in accordance with the approved plan and other applicable provisions of this ordinance may be required at the discretion of the Forge Storm Water Technician. The Pigeon Forge Storm Water Technician may make a final inspection of the structural BMP to ensure that it is in compliance with the approved plan and the provisions of this ordinance. Provisions for a partial pro-rata release of the performance security or performance bond based on the completion of various development stages may be made at the discretion of the Pigeon Forge Stormwater Technician or his

designee.

(9) Inspections

- (a) 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” twice weekly and at least 72 hours apart (3.5.8.2). 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 should be documented.
- (b) The Stormwater Authority shall perform inspections on priority construction sites, and other construction sites as warranted by site location and complaints. If the Stormwater Authority 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 as set forth in Section eight (8) of this ordinance.
- (c) The Stormwater Authority 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.
- (d) If the Stormwater Authority 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 Stormwater Authority 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.
- (e) Inspections and maintenance for post construction stormwater facilities shall be performed as required in Section five (5) for post construction design and maintenance.

**Section 4. Stormwater system design and management standards.**

(1) Storm water design or BMP manual.

- (a) The City adopts as its storm water design and best management practices (BMP) manual the most recent edition and/or amendment following publications, which are incorporated by reference in this ordinance as is fully set out herein:
  - (1) TDEC Sediment and Erosion Control Manual
  - (2) TDEC Manual for Post Construction
- (b) This manual includes a list of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each storm water practice. The manual may be updated and expanded from time to time, at the discretion of the governing body of the municipality, upon the recommendation of the Stormwater Technician, based on improvements in engineering, science, monitory and local maintenance experience. Storm water facilities that are designed, constructed and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.

(2). General performance criteria for storm water management. The following performance criteria shall be addressed for storm water management at all sites:

Storm Event Design Criteria. All site designs shall control the peak flow rates of storm water discharge associated with the one (1) year, two (2) year, five (5) year, and ten (10) year, year NRCS Type II twenty-four (24) hour design storm frequency and reduce the generation of post construction storm water runoff to pre-construction quantities.

- (a) These practices should seek to utilize pervious areas for storm water treatment and to infiltrate storm water runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity. Whenever detention or retention ponds are employed as part of a storm water management system, then such ponds and related storm water management equipment and facilities shall be maintained in perpetuity, as provided for in Section 4, subsection (4)(g) below.

- (b) To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the BMP manual, and as set out in 4(6) below.
  - (c) Storm water discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain storm water management practices.
  - (d) Storm water discharges from Hot Spots may require the application of specific structural BMPs and pollution prevention practices.
  - (e) Prior to or during the site design process, applicants for land disturbance permits shall consult with the Stormwater Technician to determine if they are subject to additional storm water design requirements.
  - (f) The calculations for determining peak flows as found in the BMP manual shall be used for sizing all storm water facilities.
- (3). Minimum control requirements.
- (a) Storm water designs shall meet the multi-stage storm frequency storage requirements as identified in Section 4(2)(a).
  - (b) Detention of storm water shall be required if there is to be a net increase in runoff from the site during a ten (10) year storm event following development (or redevelopment), regardless of the size of the site; 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 storm water management for more than one lot and/or for more than one property owner, such as is the case for residential and commercial subdivisions, and residential and commercial condominiums, including interval ownership (time-share) tourist housing, then a legally established property owner's association shall have the responsibility of ownership and maintenance of such areas in perpetuity. The maintenance plan and maintenance agreement shall be constructed as provided for in Section 4(4)(g) of this ordinance.

- (c) If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the Stormwater Technician may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.
- (4). Storm water management plan requirements. The storm water management plan shall include sufficient information to allow the Stormwater Technician 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 storm water generated at the project site. To accomplish this goal the storm water management plan shall include the following:
  - (a) Topographic Base Map: A 1" = 100' topographic base map of the site, unless otherwise required by site conditions, which extends a minimum of fifty (50) feet beyond the limits of the proposed development and indicates:
    - (1) Existing surface water drainage including streams, ponds, culverts, ditches, sink holes, wetlands, high quality and/or impaired streams; and the type, size, elevation, etc., 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. In instances in which a detention or retention basin is to be employed as a part of the storm water management system, the outlet structures from such basins shall be reinforced concrete pipe (RCP);
    - (6) A written description of the site plan and justification of proposed changes in natural conditions may also be required, as set forth by the Stormwater Technician.

- (b) Calculations: Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in the BMP manual. These calculations must show that the proposed storm water management measures are capable of controlling runoff from the site in compliance with this ordinance and the guidelines of the BMP manual. Such calculations shall include:
- (1) A description of the design storm frequency, duration, and intensity where applicable;
  - (2) Time of concentration;
  - (3) Soil curve numbers or runoff coefficients including assumed soil moisture conditions;
  - (4) Peak runoff rates and total runoff volumes for each watershed area;
  - (5) Infiltration rates, where applicable;
  - (6) Culvert, storm water sewer, ditch and/or other storm water conveyance capacities;
  - (7) Flow velocities;
  - (8) Data on the increase in rate and volume of runoff for the design storms referenced in the BMP manual; and
  - (9) Documentation of sources for all computation methods and field test results.
- (c) Soils Information:
- (1) If a storm water 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.
  - (2) Instances in which pipes, culverts, or other types of storm water or utility conduits are located within and/or pass through an earthen berm, special

care shall be taken to choose an appropriate soil type, which is properly compacted so that all piping remains stable and watertight.

- (d) **Maintenance and Repair Plan:** The design and planning of all storm water management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans will identify the parts or components of a storm water 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.
- (e) **Landscaping Plan:** The applicant must present a detailed plan for management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This landscaping plan shall comply with the City of Pigeon Forge Zoning Ordinance.
- (f) **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.
- (g) **Maintenance Agreement:**
  - (1) The owner of property to be served by an on-site storm water management facility must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owner and all subsequent property owners, and shall be recorded in the Register of Deeds Office for Sevier County, Tennessee.
  - (2) The maintenance agreement shall:
    - (a) Assign responsibility for the maintenance and repair of the storm water 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.
- (b) Provide for a periodic inspection by the property owner for the purpose of documenting maintenance and repair needs and ensure compliance with the purpose and requirements of this ordinance. 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 Engineer. It shall also grant permission to the city to enter the property at reasonable times and to inspect the storm water facility to ensure that it is being properly maintained.
  - (c) 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 storm water 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.
  - (d) Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the City Engineer.
  - (e) Provide that if the property is not maintained or repaired within the prescribed schedule, the City of Pigeon Forge (or its contractor) shall perform the maintenance and repair at its expense, and bill the same to the property owner. The maintenance agreement shall also provide that the City of Pigeon Forge'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.
- (3) The City shall have the discretion to accept the dedication of any existing or future storm water 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 storm water facility accepted by the City must also meet the City's construction standards and any other standards and specifications that apply to the particular storm water facility in question.

- (a) Sediment and Erosion Control Plans: The applicant must prepare a sediment and erosion control plan for all construction activities that complies with Section 4(5) below.
- (b) 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 4(6) below.

- (5). Sediment and erosion control plan requirements. The sediment and erosion control plan shall accurately describe the potential for soil erosion and sedimentation problems resulting from land disturbing activity and shall explain and illustrate the measures that are to be taken to control these problems. The plan shall incorporate designs and standards as described in the current BMP manual adopted in this ordinance as well as the current Tennessee Construction General Permit (TNCGP). The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and potential for off-site damage. A registered professional engineer licensed in the state of Tennessee shall seal the plan.

Erosion prevention and sediment control measures shall be designed according to the size and slope of disturbed drainage areas with the goal of detaining runoff and trapping sediment. Erosion prevention and sediment controls shall be designed to control the rainfall and runoff from a 2 year, 24 hour storm, as a minimum. For sites with over 10 acres disturbed at one time a temporary (or permanent) sediment basin that provides storage for a calculated volume of runoff from a 2-year, 24 hour storm for each acre drained, or equivalent control measures, shall be provided until final stabilization of the site. Where no such calculation has been performed, a temporary (or permanent) sediment basin providing 3,600 cubic feet of storage per acre drained, or equivalent control measures, shall be provided until final stabilization of the site.

All sites that are draining to either sediment impaired or high quality waters identified by TDEC on the most current 303(d) list shall be designed at a minimum to control storm runoff generated by a 5-year, 24 hour storm event. For sites over 5 acres that are draining to either sediment impaired or high quality waters, refer to the latest edition of the Tennessee Construction General Permit (TNCGP) Section 4.4 Discharge Into Impaired or High Quality Waters for design controls.

The plan shall also conform to the requirements found in the BMP manual, and shall include at least the following:

- (a) Project Description - Briefly describe the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required.
- (b) A topographic map with contour intervals of five (5) feet or less showing present conditions and proposed contours resulting from land disturbing activity.
- (c) All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or flood plains and high quality and/or impaired streams.
- (d) A general description of existing land cover. Individual trees and shrubs do not need to be identified.
- (e) Stands of existing trees as they are to be preserved upon project completion, specifying their general location on the property. Differentiation shall be made between existing trees to be preserved, trees to be removed and proposed planted trees. Tree protection measures must be identified, and the diameter of the area involved must also be identified on the plan and shown to scale. Complete landscape plans may be submitted separately.
- (f) Approximate limits of proposed clearing, grading and filling.
- (g) Approximate flow volumes of existing storm water leaving any portion of the site.
- (h) A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.
- (i) Location, size and layout of proposed storm water and sedimentation control improvements.
- (j) Proposed drainage network.
- (k) Proposed drain tile or waterway sizes.

- (l) Approximate flow volumes leaving site and their location after construction and incorporating water run-off mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems, including but not limited to high quality and/or impaired waters, wetlands, sinkholes, and locations where storm water is discharged to surface water. The plan must address the adequacy of outfalls from the development: when water is concentrated, what is the capacity of waterways, if any, accepting storm water off-site; and what measures, including infiltration, sheeting into buffers, etc., are going to be used to prevent the scouring of waterways and drainage areas off-site, etc.
- (m) The projected sequence of work represented by the grading, drainage and sedimentation and erosion control plans as related to other major items of construction, beginning with the initiation of excavation and including the construction of any sediment basins or retention facilities or any other structural BMP's.
- (n) Specific remediation measures to prevent erosion and sedimentation run-off. Plans shall include detailed drawings of all control measures used; stabilization measures including vegetation and non-vegetation measures, both temporary and permanent, will be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan.
- (o) Specific details for: the construction of rock pads, wash down pads, and settling basins for controlling erosion; road access points; eliminating or keeping soil, sediment, and debris on streets and public ways at a level acceptable to the Stormwater Technician. Soil, sediment, and debris brought onto streets and public ways must be removed by the end of the workday by machine, broom or shovel to the satisfaction of the Stormwater Technician. Failure to remove the sediment, soil or debris shall be deemed a violation of this ordinance.
- (p) Proposed structures; location (to the extent possible) and identification of any proposed additional buildings, structures or development on the site.
- (q) A description of on-site measures to be taken to recharge surface water into the ground water system through infiltration.

(6.) Buffer requirements.

- (a) Blue line stream and other bodies of water: Whenever a development or redevelopment site has a blue line stream or other body of water (pond, stream, creek, lake) on such site, flowing through such site, or bordering such site, a buffer of natural and/or man made vegetation shall be maintained and/or installed which is at least twenty-five (25) feet in width, 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, greenways, walking trails, and/or undisturbed native vegetation. The Stormwater Technician 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 may also require permits from federal, state, and other local agencies.
- (b) Whenever a development or redevelopment is adjacent to a stream or has a stream flowing through the property designated as impaired or high quality then a buffer zone shall be maintained in accordance with the most current TNCGP Section 4.4 Discharges into Impaired or High Quality Waters.

## **Section 5. Post Construction.**

- (1). 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 revegetated according to a schedule approved by the Pigeon Forge Storm Water Technician. The following criteria shall apply to revegetation efforts:
    - (1) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.
    - (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 the plantings are established and are capable of controlling erosion.
    - (3) Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.
  - (b) In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.
- (2). Inspection of stormwater management facilities. Periodic inspections of facilities shall be performed as provided for in §4(3)(f)(2)(b).
- (3). Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at least two years. These records shall be made available

to the Storm Water Technician during inspection of the facility and at other reasonable times upon request.

- (4). 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 Pigeon Forge Storm Water Technician, 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 Pigeon Forge Storm Water Technician 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 Storm Water Technician. In the event that corrective action is not undertaken within that time, the Pigeon Forge Storm Water Technician may take necessary corrective action. The cost of any action by the Pigeon Forge Storm Water Technician under this section shall be charged to the responsible party or charged as a tax lien on the property.

## **Section 6. Existing locations and developments.**

- (1). Inspection of existing facilities. The Pigeon Forge Storm Water Technician may, to the extent authorized by state and federal law, establish inspection programs to verify that all stormwater management facilities, including those built before as well as after the adoption of this ordinance, are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the municipality's NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.
- (2). Requirements for existing problem locations. The Pigeon Forge Storm Water Technician may in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problem affecting such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance.

**Section 7. Illicit discharges.**

(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 storm water. The commencement, direction or continuance of any non-storm water discharge to the municipal separate storm sewer system is prohibited.

(a) Prohibitions. No person shall be allowed to , or continue to, any of the following:

(1) Connect, or allow to be connected, any sanitary sewer to the storm water system including any sanitary sewer connected to the storm water system as of the date of adoption of this section.

(2) Cause or allow an illicit discharge to the storm water system, or any component thereof, or onto driveways, sidewalks, parking lots, sinkholes, creek banks, or other areas draining to the storm water system. Illicit discharges include, but are not limited to:

- (a) Sewage discharges or overflows, including Sanitary Sewer Overflows (SSOs);
- (b) Discharges of wash water resulting from the hosing or cleaning of gas stations, auto repair garages, or other types of automotive services facilities;
- (c) Discharges resulting from the cleaning, repair, or maintenance of any type of equipment, machinery, or facility including motor vehicles, cement related equipment, and port-a-potty servicing, etc.;
- (d) Discharges of wash water from mobile operations such as mobile automobile washing, steam cleaning, power washing, and carpet cleaning, etc;
- (e) Discharges of wash water from the cleaning of hosing of impervious surfaces in industrial and commercial areas including parking lots, streets, sidewalks, driveways, patios, plazas, work yards, and outdoor eating or drinking areas, etc.;

- (f) Discharges of runoff from material storage areas containing chemicals, fuels, grease, oil, or other hazardous materials;
- (e) Discharges of pool or fountain water containing chlorine, biocides, or other chemicals; discharges of pool or fountain filter backwash water;
- (g) Discharges of sediment, or construction-related wastes, etc.;
- (h) Discharges of food-related wastes (e.g., grease, fish processing, and restaurant kitchen mat and trash bin wash water, etc.).

Subject to the provisions of subsection (c), the following uncontaminated discharges shall not be in violation of this section:

- (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) Fire fighting activities, and
  - (15) Any other uncontaminated water source.
  - (16) Discharges from potable water sources,
  - (17) Individual noncommercial car washing on residential properties; 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

- (19) Street deicing for public safety,
  - (20) Any activity authorized by a valid NPDES permit, and  
Any other uncontaminated water source.
  - (b) Discharges specified in writing by the Pigeon Forge Stormwater Technician as being necessary to protect public health and safety.
  - (c) Dye testing is an allowable discharge if the Pigeon Forge Stormwater Technician has so specified in writing.
  - (d) If the Stormwater Technician finds that any activity, including but not limited to any of the activities listed in subsection (b) above, are found to cause or may cause sewage, industrial wastes or other wastes to be discharged into the storm water system, the Stormwater Technician shall so notify the person performing such activities, and shall order that such activities be stopped or conducted in such manner as to avoid the discharge of sewage, industrial wastes or other wastes into the storm water system. The Stormwater Technician may require a storm water pollution prevention plan to insure that the activity can be conducted without causing further discharge of pollution to the storm water system.
- (3). 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.
- (4). Reduction of stormwater pollutants by the use of best management practices. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMP's necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

- (5). Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into stormwater, the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the Pigeon Forge Stormwater Technician within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least two years.
- (6) 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 with a seating capacity of 200 or greater), commercial properties with large paved parking areas, factories, retail facilities, manufacturing plants (such as concrete plants, asphalt plants, etc.), storage lots, maintenance areas, etc., shall be prohibited. This section also requires these and other businesses and facilities already in operation within the boundaries of Sevier County must maintain proper storage and disposal practices of hazardous substances and oil.

## **Section 8. Enforcement**

- (1). Enforcement authority. The Pigeon Forge Storm Water Technician or his designee(s) shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this section. Enforcement procedures follow a standardized progression of events that are collectively known as an enforcement protocol to be applied by the City of Pigeon Forge Storm Water Technician or other authorized agents. Each enforcement action should be based on it's 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.

The establishment of this continuum shall include but not be limited to:

- A. Site inspection
- B. Verbal or written notice of inspection findings and corrective actions suggested
- C. Follow up inspection
- D. Notice of Violation or Compliance Order
- E. Cease and Desist Order or Stop work Order
- F. Civil Penalty
- G. Suspension or Revocation of Permit

- (2). Notification of violation.

- (a) Written Notice. Whenever the Pigeon Forge Storm Water Technician finds that any permittee or any other person discharging stormwater has violated or is violating this ordinance or a permit or order issued hereunder, the Storm Water Technician may serve upon such person written notice of the violation. Within ten (10) days of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the Storm Water Technician. 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.

- (b) Consent Orders. The Storm Water Technician or his designee(s) is (are) empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to paragraphs (d) and (e) below.
- (c) Compliance Order. When the Storm Water Technician 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.
- (d) Cease and Desist Orders. When the Storm Water Technician finds that any person has violated or continues to violate this ordinance or any permit or order issued hereunder, the Storm Water Technician 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.
- (3). Conflicting standards. Whenever there is a conflict between any standard contained in this ordinance and in the BMP manual adopted by the municipality under this ordinance, the strictest standard shall prevail.

## **Section 9. Penalties.**

- (1). Violations. Any person who shall commit any act declared unlawful under this ordinance, who violates any provision of this ordinance, who violates the provisions of any permit issued pursuant to this ordinance, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the City Engineer, shall be guilty of a civil offense. When such violations also constitute violations of the City zoning ordinance and/or subdivision regulations, the violator may also be subject to penalties provided for violation of such ordinance and regulations in Title 13 of the TCA.
- (2). Penalties. Under the authority provided in Tennessee Code Annotated §68-221-1106, the municipality declares that any person violating the provisions of this ordinance may be assessed a civil penalty by the City Judge of not less than fifty (\$50.00) nor more than five thousand (\$5000.00) dollars 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 following may 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 municipality;
  - (f) The amount of penalty established by ordinance or resolution for specific categories of violations; and
  - (g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

- (4). Recovery of damages and costs. In addition to the civil penalty in subsection (2) above, the municipality may recover;
- (a) All damages proximately caused by the violator to the municipality, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this ordinance, or any other actual damages caused by the violation.
  - (b) The costs of the municipality's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this ordinance.
- (5). Other remedies. The municipality may bring legal action to enjoin the continuing violation of this ordinance, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.
- (6). Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted.

## **Section 10. Appeals.**

- (1). Appeal Procedure. As provided in 68-221-1106, TCA, any person served in any manner authorized by law in regard to a damage assessment or civil penalty related to the violation of this ordinance may appeal the imposition of such assessment or penalty within thirty (30) days of being served. If a violator has not corrected a violation within ten (10) days of receipt of a notice of violation and has not made application for a show cause hearing, as provided for in Section 10 (1), then the violator shall have thirty (30) days after such hearing to file an appeal. The failure to initiate an appeal shall be deemed to represent the consent of the violator to the damage assessment or civil penalty imposed by the City. The appeals process shall be initiated when an application containing all applicable information, as outlined in the “Application Checklist”, accompanied by the appropriate application fee, is accepted by the Pigeon Forge Stormwater Technician. The “Application for Appeal”, “Application Checklist” and “Fee Schedule”, shall be maintained in the office of the Pigeon Forge Stormwater Technician. Upon receipt, the Pigeon Forge Stormwater Technician shall arrange for a hearing before the Stormwater Appeals Board in a timely manner.
- (2). Stormwater Appeals Board. The City hereby designates the Stormwater Appeals Board (SWAB) as the body authorized to hear appeals to damage assessments and civil penalties imposed upon a violator by the City, as provided for in Section 9 of this ordinance. The SWAB shall be composed of representatives of all local governments within Sevier County that are parties to the MS4 permit issued jointly to such local governments.
- (3). Public Hearing. Prior to hearing the appeal of a person accused of a violation of this ordinance, the SWAB shall cause a notice of such hearing to be published in a daily newspaper of general circulation at least ten (10) days prior to the date of hearing.
- (4). Finding of the SWAB. Whenever the SWAB finds a person to be in violation of this ordinance, then such person shall be immediately subject to the penalties prescribed by the Stormwater Technician in the initial notice of violation, unless otherwise altered by the SWAB.

- (5) Appeal from the Finding of the SWAB. Any appeal from the finding of the SWAB shall be made to the state circuit court or chancery court, as provided for in Title 27, Chapter 8, TCA.
- (6) Execution of Penalties. Whenever any damage assessment or civil penalty has become final due to a person's failure to appeal a notice of violation of this ordinance and therefore subject to the penalties imposed there under, and such person has failed to pay a damage assessment and/or take corrective action as directed, then the City may apply to Chancery Court for a judgment to compel such person to comply.

**Section 11.** This ordinance shall take effect fifteen (15) days after its passage, the public welfare requiring it.

**APPROVED:** \_\_\_\_\_  
**MAYOR**

**ATTEST:** \_\_\_\_\_  
**CITY RECORDER**

\_\_\_\_\_  
**APPROVED AS TO FORM**  
**JAMES L. GASS, CITY ATTORNEY**

**Passed on first reading:** June 9, 2008

**Passed on second reading:** June 23, 2008