

# **LENOIR CITY STORMWATER ORDINANCE**

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## STORMWATER ORDINANCE

### Section 1. General Provisions.

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

- (a) Protect, maintain, and enhance the environment of Lenoir City and the public health, safety and 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 Lenoir City to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR ' 122.26 for stormwater discharges.
- (c) Allow Lenoir City to exercise the powers granted in Tennessee Code Annotated § 68-221-1105, which provides the power by ordinance or resolution to:
  - i. Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the city, whether or not owned and operated by the city;
  - ii. Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;

- iii. Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality;
- iv. Review and approve plans and plats for stormwater management in proposed subdivisions or commercial developments;
- v. Issue permits for stormwater discharges, or for the construction, alteration, extension, or repair of stormwater facilities;
- vi. Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;
- vii. Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and
- viii. Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private.

(2) Administering entity. Lenoir City Stormwater 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) *Administrative or Civil Penalties* - Under the authority provided in Tennessee Code Annotated § 68-221-1106, the City declares that any person violating the provisions of this chapter may be assessed a civil penalty by the City of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.
- (2) *Analytical monitoring* - Test Procedures for the Analysis of Pollutants - Test procedures for the analysis of pollutants shall conform to regulations published pursuant to Section 304 (h) of the Clean Water Act (the "Act"), as amended, under which such procedures may be required. Pollutant parameters shall be determined using sufficiently sensitive methods in Title 40 C.F.R. § 136, as amended, and promulgated pursuant to Section 304 (h) of the Act. The chosen methods must be sufficiently sensitive as required in state rule 0400-40-03-.05(8).
- (3) *Aquatic Resource Alteration Permit (ARAP)* physical alterations to properties of the waters of the state require an ARAP or a §401 Water Quality Certification (§401 certification). ARAP means a permit issued pursuant to T.C.A. § 69-3-108 of the Act, which authorizes the alteration of properties of waters of the state that result from activities other than discharges of wastewater through a pipe, ditch, or other conveyance.
- (4) *As built plans* means drawings depicting conditions as they were actually constructed.
- (5) **Best Management Practices ("BMPs")** means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the discharge of pollutants to waters of the state. BMPs also include treatment

requirements, operating procedures; and practices to control plant site runoff, spillage, leaks, sludge or waste disposal, or drainage from raw material storage. BMPs include source control practices (non-structural BMPs) and engineered structures designed to treat runoff.

- (a) Structural BMPs are facilities that help prevent pollutants in stormwater runoff from leaving the site.
- (b) Non-structural BMPs are techniques, activities and processes that reduce pollutants at the source.

[NOTE: See ' 4(2) for recommended BMP manual.]

- (6) *BMP Manual* provides technical guidance including additional policies, criteria, standards, specifications, constants, and information for the proper implementation of the requirements of the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR § 122 as applicable for stormwater discharges.
- (7) *Borrow Pit* is an excavation from which erodible material (typically soil) is removed to be fill for another site. There is no processing or separation of erodible material conducted at the site. Given the nature of activity and pollutants present at such excavation, a borrow pit is considered a construction activity.
- (8) *Buffer Zone or Water Quality Riparian Buffer* is a permanent strip of natural perennial vegetation, adjacent to a stream, river, wetland, pond, or lake that contains dense vegetation made up of grass, shrubs, and/or trees. The purpose of a water quality riparian buffer is to maintain existing water quality by minimizing risk of any potential sediments, nutrients or other pollutants reaching adjacent surface waters and to further prevent negative water quality impacts by providing canopy over adjacent waters.

- (9) *Channel* means a natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.
- (10) *Clearing* refers to removal of vegetation and disturbance of soil prior to grading or excavation in anticipation of construction activities. Clearing may also refer to wide area land disturbance in anticipation of non-construction activities. Clearing, grading, and excavation do not refer to clearing of vegetation along existing or new roadways, highways, dams, or power lines for sight distance or other maintenance and/or safety concerns, or cold planing, milling, and/or removal of concrete and/or bituminous asphalt roadway pavement surfaces. The clearing of land for agricultural purposes is exempt from federal stormwater NPDES permitting in accordance with Section 401(1)(1) of the 1987 Water Quality Act and state stormwater NPDES permitting in accordance with the Tennessee Water Quality Control Act of 1977 (T.C.A. § 69-3-101 et seq.).
- (11) *Common plan of development or sale* is broadly defined as any announcement or documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot. A common plan of development or sale identifies a situation in which multiple areas of disturbance are occurring on contiguous areas. This applies because the activities may take place at different times, on different schedules, by different operators.
- (12) *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 Lenoir City.



- (13) *Construction Stormwater discharge-related activities* means activities that cause, contribute to or result in point source stormwater pollutant discharges. These activities may include excavation, site development, grading and other surface disturbance activities; and activities to control stormwater including the siting, construction and operation of best management practices (BMPs).
- (14) *Contaminant* means any physical, chemical, biological, or radiological substance or matter in water.
- (15) *Control measure* refers to any Best Management Practice (BMP) or other method used to prevent or reduce the discharge of pollutants to waters of the state.
- (16) *CWA* means the Clean Water Act of 1977 or the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq.)
- (17) *Design storm* is a 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), National Weather Service, Hydrometeorological Design Studies Center, Silver Springs, Maryland or its digital product equivalent. The estimated design rainfall amounts, for any return period interval (i.e., 1-yr, 2-yr, 5-yr, 25-yr, etc.) in terms of either depths or intensities for any duration, can be found by accessing the data available at [https://hdsc.nws.noaa.gov/hdsc/pfds/pfds\\_map\\_cont.html](https://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html). The Design Storm Events for the City of Lenoir City are as follows:
- (a) 24-hour storm, 1 year frequency - 2.7"
  - (b) 24-hour, 2 year frequency - 3.3"
  - (c) 24 hour, 5 years frequency - 4.0"
  - (d) 24-hour storm, 10 year frequency - 4.8"

(e) 24-hour storm, 25 year frequency - 5.5"

(f) 24 hour, 100 year frequency - 6.6"

(18) *Discharge* or discharge of a pollutant refers to the addition of pollutants to waters from a source.

(19) *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.

(20) *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.

(21) *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.

(22) *Exceptional Tennessee Waters* are surface waters designated by the Tennessee Department of Environment and Conservation as having the characteristics set forth at Tennessee Rules, Chapter 0400-40-03-.06(4). Characteristics include waters within parks or refuges; scenic rivers; waters with threatened or endangered species; waters that provide specialized recreational opportunities; waters within areas designated as lands unsuitable for mining; waters with naturally reproducing trout; waters with exceptional biological diversity and other waters with outstanding ecological or recreational value.

(23) *Hotspot* means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

Examples might include operations producing concrete or asphalt, auto repair shops, auto supply shops, large commercial parking areas and restaurants.

- (24) *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.
- (25) *Illicit discharge* means any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under '9(2)(a).
- (26) *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.
- (27) *Level 1 - Fundamentals of Erosion Prevention and Sediment Control* training and certification program administered by University of Tennessee Water Resources Research Center (<https://tnepsc.org/index.asp>).
- (28) *Maintenance* means any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. 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* 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.
- (30) *Municipal separate storm sewer system (MS4)* 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.

- (31) *Municipality* means any incorporated city or town, county, metropolitan or consolidated government, or special district of this state empowered to provide storm water facilities.
- (32) *National Pollutant Discharge Elimination System permit (NPDES permit)* means a permit issued pursuant to 33 U.S.C. 1342.
- (33) *Off-site facility* means a structural BMP located outside the subject property boundary described in the permit application for land development activity.
- (34) *On-site facility* means a structural BMP located within the subject property boundary described in the permit application for land development activity.
- (35) *Operator* means any person who owns, leases, operates, controls, or supervises a source. Including, but not limited to, an owner or operator of any “facility or activity” subject to regulation under the NPDES program.
- (36) *Peak flow* means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.
- (37) *Permanent Stabilization* means that all soil disturbing activities at the site have been completed and one of the three following criteria is met:
- (a) A perennial, preferably native, vegetative cover with a uniform (i.e., evenly distributed, without large bare areas) density of at least 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.
  - (b) 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.

(c) 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.

- (38) *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.
- (39) *Point source* (or Outfall) means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include introduction of pollutants from non-point source agricultural and silvicultural activities, including stormwater runoff from orchards, cultivated crops, pastures, range lands, forest lands or return flows from irrigated agriculture or agricultural stormwater runoff. In short, outfall is a point where runoff leaves the site as a concentrated flow in a discrete conveyance.
- (40) *Pollutant* means sewage, industrial wastes, or other wastes.
- (41) *Priority area* means a hot spot as defined in ' 2(23).
- (42) *Priority construction* means those construction activities discharging directly into, or immediately upstream of, waters the state recognized as unavailable condition for siltation or Exceptional Tennessee Waters.
- (43) *Registered Professional Engineer and Registered Landscape Architect* - An engineer or landscape architect certified and registered by the State Board of Architectural and Engineer Examiners pursuant to Section 62-202, Tennessee Code Annotated, to practice in Tennessee.

- (44) *Runoff* means that portion of the precipitation on a drainage area that is discharged from the area into the municipal separate stormwater system.
- (45) *Runoff coefficient* means the fraction of total rainfall that will appear at the conveyance as runoff. Runoff coefficient is also defined as the ratio of the amount of water that is not absorbed by the surface to the total amount of water that falls during a rainstorm.
- (46) *Sediment* means solid material, both inorganic (mineral) and organic, that is in suspension, is being transported, or has been moved from its site of origin by wind, water, gravity, or ice as a product of erosion.
- (47) *Sedimentation* means the action or process of forming or depositing sediment.
- (48) *Significant Contributor* is defined as a source of pollutants where the volume, concentration, or mass of a pollutant in a stormwater discharge can cause or threaten to cause pollution, contamination, or nuisance that adversely impact human health or the environment and cause or contribute to a violation of any applicable water quality standards for receiving water.
- (49) *Soil or Topsoil* means the unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of plants.
- (50) *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.
- (51) *Stabilization* means providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.
- (52) *Steep Slope or Steep Grade* means a natural or created slope of 35% grade or greater.

(53) *Stormwater* means stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.

(54) *Stormwater associated with industrial activity* is defined in 40 C.F.R. 122.26(b)(14) and incorporated here by reference. Most relevant to the City is 40 C.F.R. 122.26(b)(14)(x), which relates to construction activity including clearing, grading, filling and excavation activities, including borrow pits containing erodible material. Disturbance of soil for the purpose of crop production is exempt from NPDES permit requirements, but stormwater discharges from agriculture-related activities that involve construction of structures (e.g., barn construction, road construction, pond construction) are considered associated with industrial (construction) activity. Maintenance to the original line and grade, hydraulic capacity; or to the original purpose of the facility (e.g., re-clearing, minor excavation performed around an existing structure necessary for maintenance or repair and repaving of an existing road) is not considered a construction activity.

(55) *Stormwater Control Measure (SCM)*: means permanent practices and measures designed to reduce the discharge of pollutants in stormwater runoff from new development projects or redevelopment projects.

(56) *Stormwater management* means the programs to maintain quality and quantity of stormwater runoff to pre-development levels.

(57) *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.

(58) *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.

(59) *Stormwater Pollution Prevention Plan (SWPPP)* is a written site-specific plan required by the Tennessee Construction General Permit (CGP) that includes a narrative pollution prevention plan and graphical erosion and sediment control plan. In its basic form, the plan contains a site map, a description of construction activities that could introduce pollutants to stormwater runoff, a description of measures or practices to control these pollutants, and erosion and sediment control plans and specifications. The SWPPP should be prepared in accordance with the Tennessee Erosion and Sediment Control Handbook (latest edition).

(60) *Stormwater runoff* means flow on the surface of the ground, resulting from precipitation.

(61) *Stormwater utility* means the stormwater utility created by ordinance or resolution of the city to administer the stormwater management ordinance, and other stormwater rules and regulations adopted by the city.

(62) *Stream* as defined by TCA 69-3-103(38) “stream” means a surface water that is not a wet weather conveyance.

(63) *Structural BMPs* means devices that are constructed to provide control of stormwater runoff.

(64) *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.

(65) *Tennessee Erosion and Sediment Control (TESC) Handbook* is a guidance issued by the Division of Water Resources for the purpose of developing Stormwater Pollution Prevention Plans and Erosion and Sediment Control Plans required by the Construction General Permit CGP.



- (66) *Temporary stabilization* is achieved when vegetation or non-erodible surface has been established on the area of disturbance and construction activity has temporarily ceased. Under certain conditions, temporary stabilization is required when construction activities temporarily cease.
- (67) *Turbidity* is 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.
- (68) *Watercourse* means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.
- (69) *Waters (or waters of the state)* means any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through, or border upon Tennessee or any portion thereof, except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine or effect a junction with natural surface or underground waters.
- (70) *Waters with Available Parameters* means any segment of surface waters that has been identified by TDEC as supporting one or more classified uses. Available parameters exist where water quality meets the levels specified in water quality criteria in Rule 0400-40-03-.03.
- (71) *Waters with unavailable parameters* means any segment of surface waters that has been identified by the TDEC as failing to support one or more classified uses. Unavailable parameters exist where water quality is at, or fails to meet, the levels specified in water quality criteria in Rule 0400-40-03-.03, even if caused by natural conditions. In the case of a criterion that is a single response variable or is derived from measurement of multiple response variables, the unavailable parameters shall be the agents causing water quality to be at or failing to meet the levels specified in criteria. Resources to be used in making this

determination include biennial compilations of impaired waters, databases of assessment information, updated GIS coverages (<https://tdeconline.tn.gov/dwr/>), and the results of recent field surveys. GIS coverages of the streams and lakes not meeting water quality standards, plus the biennial list of waters with unavailable parameters, can be found at <https://www.tn.gov/environment/program-areas/wr-water-resources/water-quality/water-quality-reports--publications.html>.

- (72) *Water quality treatment volume (WQTV)* is a portion of the runoff generated from impervious surfaces at a new development or redevelopment project by the 1-year 24-hour design storm. The WQTV is further determined by the type of treatment provided.
- (73) *Watershed* means all the land area that contributes runoff to a particular point along a waterway.
- (74) *Wet weather conveyances* are man-made or natural watercourses, including natural watercourses that have been modified by channelization, that meet the following:
- (a) The conveyance carries flow only in direct response to precipitation runoff in its immediate locality.
  - (b) The conveyance's channels are at all times above the groundwater table.
  - (c) The flow carried by the conveyance is not suitable for drinking water supplies.
  - (d) Hydrological and biological analyses indicate that, due to naturally occurring ephemeral or low flow under normal weather conditions, there is not sufficient water to support fish or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two months. (Tennessee Rules, Chapter 0400-40-3-.04(3)).

**Section 3. Construction Stormwater Management.**

(1) MS4 Stormwater Construction BMP Manual

- (a) Adoption. The City adopts as its MS4 stormwater construction BMP manual the *TDEC Erosion and Sediment Control Handbook (most current edition)*, which is incorporated by reference in this ordinance as if fully set out herein.
- (b) The City has adopted, for use in designing Stormwater Control Measures, construction design storm events. The construction design storm events adopted by the City, where runoff from the site drains to the following waters, are as follows:
  - i. Waters with Available Parameters: 2 Year, 24-Hour storm - 3.3”
  - ii. Waters with Unavailable Parameters: 5 Year, 24-Hour storm - 4.0”
  - iii. Exceptional Tennessee Waters: 5 Year, 24-Hour storm - 4.0”
- (c) Requirements for design storm for all waters as well as special conditions for unavailable parameters waters or exceptional Tennessee waters must be consistent with those of the current Tennessee Construction General Permit (TNR100000).

(2) Adoption of Design Storm Requirements and Special Conditions: The municipality has adopted, for use in designing EPSC measures, the design storm requirements from the current Tennessee Construction General Permit for all waters as well as special conditions for unavailable parameters or Exceptional Tennessee Waters.

(3) Minimizing Exposure in Waste Control Construction: Waste Control Construction site operators are required to minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides,

detergents, sanitary waste and other materials present on the site to precipitation and to stormwater.

(4) Priority Construction:

- (a) Priority in construction shall be, at a minimum, those construction activities discharging directly into, or immediately upstream of, waters the state recognized as unavailable condition for siltation or Exceptional Tennessee Waters.
- (b) Requirements for all priority construction activities must include preconstruction meetings with construction site operators for priority construction activities.

(5) Land Disturbance Permits - When required.

- (a) This section shall be applicable to all land development, including, but not limited to, site plan applications, subdivision applications, land disturbance applications and grading applications. These standards apply to qualifying new development or redevelopment site(s). Every person will be required to obtain a land disturbance permit from the Lenoir City Stormwater Department in the following cases:
  - i. New development that involves land development activities of one (1) acre or more;
  - ii. Redevelopment that involves other land development activity of one (1) acre or more.
- (b) Projects of less than one acre of total land disturbance may also be required to obtain authorization under this ordinance if:

- i. the City 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 standard; or is likely to be a significant contributor of pollutants to water of the state;
- ii. 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;
- iii. any new development or redevelopment, regardless of size, that is defined by the City to be a hot spot land use;
- iv. such activity is part of a larger common plan of development that meets the minimum applicability criteria set forth in item (a) above (see “common plan of development” definition).
- v. in the discretion of the Lenoir City Stormwater Department such activity poses a unique threat to water, or public health or safety;
- vi. the project involves the creation and use of borrow pits, that are not permitted under the Tennessee Multi Sector Permit (TMSP), where material is excavated and relocated offsite, and fill sites where materials or earth is deposited by mechanized methods resulting in an increased elevation or grade.
- vii. in the discretion of the Lenoir City Stormwater Department, for single or duplex residential lots of any size, lots that have karst features, adjoining lakes or streams, slopes exceeding fifteen percent (15%), floodplains or streams to cross are required to submit an erosion control and stormwater management plan. Depending on site specific

conditions the requirement that the plan be developed by a qualified licensed professional engineer or landscape architect may be waived by the City.

- (c) If unpermitted construction activity is on-going, the City will issue an immediate stop-work order. If, in addition to the City's permit, a TDEC permit was required but was not obtained, the violator will also be reported to TDEC.

(6) Land Disturbance/Grading/Stormwater Construction Permit: Persons seeking the issuance of any land disturbance permit must provide proof of coverage under the Tennessee Construction General Permit (CGP) (if applicable) when requested; and a copy of the Stormwater Pollution Prevention Plan (SWPPP) to the City when requested.

- (a) Copies of additional applicable local, state or federal permits (i.e.: ARAP, approved hydrologic determination, etc.) must also be provided to the City.
- (b) The City has the authority to withhold local permits prior to receiving copies of the aforementioned permits.
- (c) In circumstances where no such permits have been required, the City may still require a SWPPP as part of the land disturbance permit application.

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

(8) Use of Construction BMPs Required: Construction site operators are required to implement appropriate erosion prevention and sediment control measures and best management practices. EPSC requirements shall meet the Tennessee's CGP design storm(s), be consistent with the TDEC ESC Handbook best management practices and with the requirements of this ordinance.

- (9) Provide Copy of Site Assessments: Where site assessments are required by the CGP, the operator shall provide a copy of the assessment to the City.
- (10) Site Inspections Required: Twice-weekly inspections of the site and the BMP's/SCM's must be performed by an individual who has either received certification under the Level I Fundamentals of Erosion Prevention and Sediment Control course or has other credentials identified as equivalent within this ordinance.
- (11) 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 stabilized. Stabilization measures shall be initiated as soon as possible in portions of the site where construction activities have temporarily or permanently ceased. Temporary or permanent soil stabilization at the construction site (or a phase of the project) must be completed not later than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased. In the following situations, temporary stabilization measures are not required:
    - i. where the initiation of stabilization measures is precluded by snow cover or frozen ground conditions or adverse soggy ground conditions, stabilization measures shall be initiated as soon as practicable; or
    - ii. where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within 14 days.
  - (b) The following criteria shall apply where revegetation is utilized for site stabilization:
    - i. Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient

coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.

- ii. Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.
  - iii. Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.
- (c) For steep slopes of 35% or more, stabilization measures shall be initiated within 7 days.
- (d) 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.
- (e) Construction buffer zones shall be those water quality buffers and buffer zones as defined in Section 2 above and shall meet the requirements in this ordinance and, where appropriate in the TN CGP. The criteria for the width of the construction buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than the



required minimum width at any measured location. If the new development or redevelopment site encompasses both sides of a stream, buffer averaging can be applied to both sides, but must be applied independently. Water quality riparian buffer widths are measured from the top of bank also referred to as the “ordinary high-water mark.” Construction buffers are not primary sediment control measures and shall not be relied on as such. Stormwater discharges must enter the water quality riparian buffer zone as sheet flow, not as concentrated flow, where site conditions allow. The designer/operator must comply with the vegetation requirements and the permissible land uses set forth for buffers in the TN CGP. Where it is not practicable to maintain a construction water quality riparian buffer, BMPs providing equivalent protection to a receiving stream as a natural water quality riparian buffer must be used.

- (f) In arid, semiarid, and drought-stricken areas where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures such as properly anchored mulch, soil binders or matting must be employed.

(12) Copy of NOT Required: Notice of Termination (NOT) the operator shall provide the City with a copy of the NOT when it is issued by TDEC.

(13) Equipment Manufacturer Startups. No bonds or securities shall be released until any equipment to be maintained by the City passes any specified manufacturer startup procedure. The warranty period shall not commence prior to the equipment passing any specified manufacturer startup procedure.

(14) Exemption. The following activities are exempt from the permit requirement:

- (a) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
- (b) Existing nursery and agricultural operations conducted as a permitted main or accessory use.
- (c) Any logging or agricultural activity that is consistent with an approved farm conservation plan or a timber management plan prepared or approved by a cognizant Federal or state agency.
- (d) Additions or modifications to existing single family structures.

(15) Sediment and Erosion Control Plan Requirements. Per Section 5(1)(a)(ii)(1) of this ordinance a Sediment and Erosion Control Plan is required. 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 length and complexity of the plan is to be commensurate with the size of the project and the severity of the site conditions. 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 four (4) feet or less showing present conditions and proposed contours resulting from land disturbing activity.
- (c) All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or flood plains.

- (d) A general description of existing land 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. Information shall be supplied concerning the proposed destruction of exceptional and historic trees in setbacks and buffer strips, where they exist. Complete landscape plans may be submitted separately. The plan must include the sequence of implementation for tree protection measures.
- (f) Approximate limits of proposed clearing, grading and filling.
- (g) Approximate flows of existing stormwater leaving any portion of the site.
- (h) A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.
- (i) Location, size and layout of proposed stormwater and sedimentation control improvements.
- (j) Proposed drainage network.
- (k) Proposed drain tile or waterway sizes.
- (l) Approximate flows leaving site after construction and incorporating water runoff mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The plan must address the adequacy of outfalls from the development: when water

is concentrated, what is the capacity of waterways if any, accepting stormwater off-site; and what measures, including infiltration, sheeting into buffers, etc., are going to be used to prevent the scouring of waterways and drainage areas off-site, etc.

- (m) The projected sequence of work represented by the grading, drainage and sedimentation and erosion control plans as related to other major items of construction, beginning with the initiation of excavation and including the construction of any sediment basins or retention facilities or any other structural BMPs.
- (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 are needed for the following: 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 Lenoir City Stormwater Department. Soil, sediment, and debris brought onto streets and public ways must be removed by the end of the work day by machine, broom or shovel to the satisfaction of the Lenoir City Stormwater Department. 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, structure 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.

**Section 4. Permanent Stormwater Management: Design and Construction Inspection**

- (1) Water Quality Riparian Buffers: Post Construction/Permanent water quality riparian buffers shall be those buffers defined in Section 2(8) above and shall meet the requirements described within the Lenoir City Stream Buffer Ordinance (Chapter 3 of Title 14 of the Lenoir City Municipal Code).
- (2) Stormwater Design or BMP (Best Management Practices) Manual.
  - (a) Adoption. The city adopts the *Tennessee Permanent Stormwater Management and Design Guidance Manual* as its stormwater design and BMP manual and the same is incorporated by reference into this ordinance.
  - (b) This manual includes a list of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each stormwater practice. The manual may be updated and expanded from time to time, at the discretion of the governing body of the city, upon the recommendation of the Lenoir City Stormwater Department, based on the improvements in engineering, science, monitoring, and local maintenance experience. Stormwater facilities that are designed, constructed and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.
- (3) General Performance Criteria for Stormwater Management. Unless granted a waiver in accordance with Section 8 of this ordinance or judged by the Lenoir City Stormwater Department to be exempt, performance criteria consistent with Section 11-615(F) "Storm

Water Detention, Channel Protection, and Water Quality Treatment” within the City’s Zoning Ordinance, shall be provided for stormwater management at all sites.

(4) Minimum Control Requirements.

- (a) Stormwater designs shall meet the multi-stage storm frequency storage requirements as identified in the BMP manual unless the Lenoir City Stormwater Department has granted the applicant a full or partial waiver for a particular BMP under ' 8.
- (b) If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the Lenoir City Stormwater Department may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

(5) Stormwater Management Plan Requirements. Per Section 5(1)(a)(ii)(2), a Stormwater Management Plan is required to be submitted with each permit application. The stormwater management plan shall include sufficient information to allow the Lenoir City Stormwater Department to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. To accomplish this goal, the stormwater management plan shall include the following:

- (a) Topographic Base Map: A 1” = 100’ topographic base map of the site which extends a minimum of 500 feet beyond the limits of the proposed development and indicates:

- i. Existing surface water drainage including streams, ponds, culverts, ditches, sink holes, wetlands; and the type, size elevation, etc., of the nearest upstream and downstream drainage structures;
  - ii. Current land use including all existing structures, locations of utilities, roads, and easements;
  - iii. All other existing significant natural and artificial features;
  - iv. Proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easement; the limits of clearing and grading;
  - v. Proposed structural BMPs;
  - vi. A written description of the site plan and justification of proposed changes in natural conditions may also be required.
- (b) Calculations: Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in Section 11-615(F) “Storm Water Detention, Channel Protection, and Water Quality Treatment” within the City’s Zoning Ordinance. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with these requirements. Such calculations shall include:
- i. A description of the design storm frequency, duration, and intensity where applicable;
  - ii. Time of concentration;
  - iii. Soil curve numbers or runoff coefficients including assumed soil moisture conditions;

- iv. Peak runoff rates and total runoff volumes for each watershed area;
  - v. Infiltration rates, where applicable;
  - vi. Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;
  - vii. Flow velocities;
  - viii. Data on the increase in rate and volume of runoff for the design storms referenced in the BMP manual; and
  - ix. Documentation of sources for all computation methods and field test results.
  - x. Analysis and calculations demonstrating compliance with the Stormwater Detention, Channel Protection, and Water Quality Treatment requirements contained within Section 11-615(F) of the “Zoning Ordinance of the City of Lenoir City, Tennessee”.
- (c) **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.
- (d) **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.

(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. Where it is required by the BMP, this plan must be prepared by a registered landscape architect licensed in Tennessee.

(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 land record.

(6) Acceptance of Dedication of Stormwater Management Facility: The city 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 must also meet the city's construction standards and any other standards and specifications that apply to the particular stormwater facility in question.

**Section 5. Permit Applications and Bonds**

(1) Permit Application, Issuance, and Termination Process

- (a) Application for a land disturbance permit.
  - i. 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 Loudon County tax map and parcel reference 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 preclude the Lenoir City Stormwater Department from imposing additional development requirements and conditions, commensurate with this ordinance, on the development of property covered by those permits.

ii. Each application shall be accompanied by:

1. A sediment and erosion control plan as described in ' 3(15).
2. A stormwater management plan as described in ' 4(5), providing for stormwater management during the land disturbing activity and after the activity has been completed.
3. Each application for a land disturbance permit shall be accompanied by payment of a land disturbance permit and other stormwater management fees, which shall be set by ordinance.

(b) Review and approval of application.

i. The Lenoir City Stormwater Department will review each application for a land disturbance permit to determine its conformance with the provisions of this ordinance. Within 10 working days after receiving an application, the Lenoir City Stormwater Department shall provide one of the following responses in writing:

1. Approval of the permit application;
  2. 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.
  - ii. If the Lenoir City Stormwater Department has granted conditional approval of the permit, the applicant shall submit a revised plan that conforms to the conditions established by the Lenoir City Stormwater Department. However, the applicant shall be allowed to proceed with their land disturbing activity so long as it conforms to conditions established by the Lenoir City Stormwater Department.
  - iii. No development plans will be released until the land disturbance permit has been approved.
- (c) Permit duration. Every land disturbance permit shall expire and become null and void if substantial work authorized by such permit has not commenced within one hundred eighty (180) calendar days of issuance or is not complete within (18) months from the date of the commencement of construction.
- (d) Notice of construction. The applicant must notify the Lenoir City Stormwater Department ten (10) working days in advance of the commencement of construction. Regular inspections of the stormwater management system construction shall be conducted by the Lenoir City Stormwater Department. All inspections shall be documented, and written reports shall be prepared that contain the following information:
  - i. The date and location of the inspection;
  - ii. Whether construction is in compliance with the approved stormwater management plan;
  - iii. Variations from the approved construction specifications;

iv. Any violations that exist.

(e) Performance bonds.

- i. The Lenoir City Stormwater Department 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 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 Lenoir City Stormwater Department. Alternatively, the Lenoir City Stormwater Department shall have the right to calculate the cost of the construction cost estimates.
- ii. The performance security or performance bond shall be released in full only upon submission of as-built plans and written certification by a registered professional engineer licensed to practice in Tennessee that the structural BMP has been installed in accordance with the approved plan and other applicable provisions of this ordinance. The Lenoir City Stormwater Department will make a final inspection of the structural

BMP to ensure that it is in compliance with the approved plan and the provisions of this ordinance. Provisions for a partial pro-rata release of the performance security or performance bond based on the completion of various development stages can be made at the discretion of the Lenoir City Stormwater Department.

**Section 6. Permanent SCM Maintenance and Inspection**

- (1) As-built Plans. All applicants are required to submit actual as-built plans certified by the design engineer for any structures located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be sealed by a registered professional engineer or landscape architect licensed to practice in Tennessee. A sealed certification by the design engineer certifying that all SCM's will function within design parameters as constructed shall be included. A final inspection by the Lenoir City Stormwater Department is required before any performance security or performance bond will be released. The Lenoir City Stormwater Department shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or performance bond on the completion of various stages of development. In addition, occupation permits shall not be granted until corrections to all stormwater management facilities have been made and accepted by the Lenoir City Stormwater Department. No bonds or securities shall be released by the City until the (stormwater manger) has accepted the as built plans. The warranty period for any infrastructure to be accepted by the City for maintenance shall not commence until the City has accepted the as built plans.
- (2) Permanent Stormwater Management Plan: In addition to the certified as built drawings, the City shall be provided with a permanent stormwater management plan for the site and all

stormwater management facilities (e.g., SCM's). Occupation permits shall not be granted until the permanent stormwater management plan has been approved and accepted by the City.

- (3) Inspection of stormwater management facilities. Periodic inspections of facilities shall be performed, documented, and reported in accordance with this chapter, as detailed in Section 7(3).
- (4) Records of Installation and Maintenance Activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at least three (3) years. These records shall be made available to the City during inspection of the facility and at other reasonable times upon request.
- (5) Failure to Meet or Maintain Design or Maintenance Standards. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this chapter, the City, after notice as specified in the Enforcement Response Plan, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the City shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have fourteen (14) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the City may take necessary corrective action. The cost of any action by the City under this section shall be charged to the responsible party.

- (6) City Health and Safety Response: In the event that the stormwater management facility becomes a danger to public health/public safety the City may take such immediate corrective action as deemed necessary.

**Section 7. Permanent SCM's: New Development, Existing Locations, and Ongoing Developments.**

- (1) On-site Stormwater Management Facilities Inspection and Maintenance Agreement.
- (a) The owners of property, upon which a stormwater facility is located, must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owners and all subsequent property owners and their lessees and assigns, including but not limited to, homeowner associations or other groups or entities.
  - (b) The maintenance agreement shall:
    - i. Assign responsibility for the maintenance and repair of the stormwater facility to the owners of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.
    - ii. Provide for a periodic inspection by the property owners in accordance with the requirements of subsection (3) below for the purpose of documenting maintenance and repair needs and to ensure compliance with the requirements of this ordinance. The property owners will arrange for this inspection to be conducted by individual(s) approved by the City, who will be a registered professional engineer licensed to practice in the State of Tennessee, and who will submit a signed written report of the inspection to the City. 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.

- iii. Provide that the minimum maintenance and repair needs include but are not limited to: the removal of silt, litter and other debris, the cutting of grass, cutting and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other stormwater facilities. It shall also provide that the property owners shall be responsible for additional maintenance and repair needed to meet the intended design specification of the stormwater facility.
- iv. Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the City.
- v. Provide that if the property is not maintained or repaired within the prescribed schedule, the City 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's cost of performing the maintenance shall be a lien against the property.
- vi. Sediment and Erosion Control Plans: The applicant must prepare a sediment and erosion control plan for all construction activities that complies with ' 3(15).

(2) Existing Problem Locations - No Maintenance Agreement:

- (a) The City shall notify in writing the owners of existing locations and developments of specific drainage, erosion or sediment problems affecting or caused by such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance. Discharges from existing SCM's that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as non-compliant discharges.
- (b) Inspection of existing facilities. The City may, to the extent authorized by state and federal law, enter and inspect private property for the purpose of determining if there are illicit non-stormwater discharges, and to establish inspection programs to verify that all stormwater management facilities are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the City's NPDES MS4 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 SCM's.

(3) Owner/Operator Inspections. The owners and/or operators of the SCMs shall:

(a) Perform routine inspections to ensure that all SCM's are properly functioning.

These inspections shall be conducted on an annual basis, at a minimum.

These inspections shall be conducted by a person familiar with control measures implemented at a site. Owners or operators shall maintain documentation of these inspections. The City may require submittal of this documentation.

(b) Perform comprehensive inspection of all stormwater management facilities and practices. These inspections shall be conducted once every five years, at a minimum. Such inspections must be conducted by individual(s) approved by the City. Complete inspection reports for these five-year inspections shall include:

- i. Facility type,
- ii. Inspection date,
- iii. Latitude and longitude and nearest street address,
- iv. BMP owner information (e.g. name, address, phone number, fax, and email),
- v. A description of BMP condition including: vegetation and soils; inlet and outlet channels and structures; embankments, slopes, and safety benches; spillways, weirs, and other control structures; and any sediment and debris accumulation,
- vi. Photographic documentation of BMP's, and
- vii. Specific maintenance items or violations that need to be corrected by the BMP owner along with deadlines and reinspection dates.

- (c) Owners or operators shall maintain documentation of these inspections. The City may require submittal of this documentation.

(4) Requirements for all existing locations and developments. The following requirements shall apply to all locations and development at which land disturbing activities have occurred previous to the enactment of this ordinance.

- (a) Denuded areas must be vegetated or covered under the standards and guidelines specified in the BMP manual and on a schedule acceptable to the Lenoir City Stormwater Department.
- (b) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.
- (c) Drainage ways shall be properly covered in vegetation or secured with rip-rap, channel lining, etc., to prevent erosion.
- (d) Trash, junk, rubbish, etc. shall be cleared from drainage ways.
- (e) Stormwater runoff shall, at the discretion of the city be treated to the maximum extent practicable to prevent pollution of local waters. Such control measures may include, but are not limited to, the following:
  - i. Ponds
    - 1. Detention pond
    - 2. Extended detention pond
    - 3. Wet pond
    - 4. Alternative storage measures
  - ii. Constructed wetlands
  - iii. Infiltration systems
    - 1. Infiltration/percolation trench

2. Infiltration basin
3. Drainage (recharge) well
4. Porous pavement
- iv. Filtering system
  1. Catch basin inserts/media filter
  2. Sand filter
  3. Filter/absorption bed
  4. Filter and buffer strips
- v. Open channel
  1. Swale

(5) Corrections of Problems Subject to Appeal. Corrective measures imposed by the stormwater utility under this section are subject to appeal under ' 12 of this ordinance.

**Section 8. Waivers.**

- (1) General. Every applicant shall provide for post-construction stormwater management as required by this ordinance. Requests to waive the stormwater management plan requirements shall be submitted to the Lenoir City Stormwater Department for approval.
- (2) Conditions for Waiver. The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:
  - (a) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this ordinance.
  - (b) Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the Lenoir City Stormwater Department.

(c) Provisions are made to manage stormwater by an off-site facility. The off-site facility must be in place and designed to provide the level of stormwater control that is equal to or greater than that which would be afforded by on-site practices. Further, the facility must be operated and maintained by an entity that is legally obligated to continue the operation and maintenance of the facility.

(3) Downstream Damage, etc., Prohibited. In order to receive a waiver, the applicant must demonstrate to the satisfaction of the Lenoir City Stormwater Department that the waiver will not lead to any of the following conditions downstream:

- (a) Deterioration of existing culverts, bridges, dams, and other structures;
- (b) Degradation of biological functions or habitat;
- (c) Accelerated streambank or streambed erosion or siltation;
- (d) Increased threat of flood damage to public health, life or property.

(4) Land Disturbance Permit Not to be Issued Where Waiver Requested. No land disturbance permit shall be issued where a waiver has been requested until the waiver is granted. If no waiver is granted, the plans must be resubmitted with a stormwater management plan.

(5) Waiver Not Available for Water Quality Treatment: Waivers for Water Quality Treatment requirements contained within Section 11-615(F)(3) of the “Zoning Ordinance of the City of Lenoir City, Tennessee” cannot be provided as these are mandated by Tennessee Rule 0400-40-10.04 and the State of Tennessee’s MS4 (Municipal Separate Storm Sewer System) NPDES (National Pollutant Discharge Elimination System) General Permit (TNS000000).

**Commented [SL1]:** This is not in the model ordinance. There is no waivers section in the model. I added this to clarify that we were not waiving water quality.

**Section 9. Illicit discharges.**

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

(2) Prohibition of Illicit Discharges. No person shall introduce or cause to be introduced into the MS4 any discharge that is not composed entirely of stormwater. No person shall allow discharges that flow from a stormwater facility that is not inspected in accordance with section 7(3). Non-stormwater discharges shall include, but shall not be limited to, sanitary wastewater, car wash wastewater, radiator flushing disposal, spills from roadway accidents, carpet cleaning wastewater, effluent from septic tanks, improper oil disposal, laundry wastewater/gray water, improper disposal of auto and household toxics. The commencement, conduct or continuance of any non-stormwater discharge to the MS4 is prohibited except as described as follows:

- (a) Uncontaminated discharges from the following sources:
  - i. Water line flushing
  - ii. Landscape irrigation or lawn watering with potable water,
  - iii. Diverted stream flows,
  - iv. Rising ground water,
  - v. Groundwater infiltration to storm drains, (Infiltration is defined as water other than wastewater that enters a sewer system, including sewer service connections and foundation drains, from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.)
  - vi. Pumped groundwater,
  - vii. Discharges from potable water sources,

- viii. Foundation or footing drains,
- ix. Crawl space pumps,
- x. Air conditioning condensation,
- xi. Springs,
- xii. Water from crawl space pumps,
- xiii. Individual residential car washing,
- xiv. Natural riparian habitat or wet-land flows,
- xv. Swimming pools (if dechlorinated - typically less than one PPM chlorine),
- xvi. Street wash water with no soaps or solvents,
- xvii. Firefighting activities, and
- xviii. Any other uncontaminated water source,

unless the City determines they are significant contributors of pollutants to the MS4.

- (b) Discharges specified in writing by the Lenoir City Stormwater Department as being necessary to protect public health and safety.
- (c) Dye testing is an allowable discharge if the Lenoir City Stormwater Department has so specified in writing.

(3) Prohibition of Illicit Connections.

- (a) The construction, use, maintenance, or continued existence of illicit connections to the MS4 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.

(c) This prohibition expressly includes SCM's connected to the system not properly inspected and maintained in accordance with this ordinance.

(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 BMPs necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. Discharges from existing SCM's that have not been maintained and/or inspected in accordance with this ordinance shall be prohibited.

(5) Notification of Spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the Lenoir City Stormwater Department in person or by telephone, fax, or email, no later than the next business day. Notifications in person or by

telephone shall be confirmed by written notice addressed and mailed to the Lenoir City Stormwater Department 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 five (3) years.

- (6) Illegal Dumping Prohibited. No person shall dump or otherwise deposit outside an authorized landfill, convenience center or other authorized garbage or trash collection point, any trash or garbage of any kind or description on any private or public property, occupied or unoccupied, inside the City. Such illegal activity exposes runoff to contamination, generating an illicit discharge. Therefore, any individual or corporation guilty of illegal dumping may have committed a violation of this ordinance.

**Section 10. Enforcement.**

- (1) Enforcement Authority. The director of the Lenoir City Stormwater Department or their designees shall have the authority to issue notices of violation and citations, and to impose the civil penalties to anyone that violates 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. The City's enforcement authority includes (as set forth in the City's Enforcement Response Plan (ERP)):

- (a) Verbal Warnings - At a minimum, verbal warnings must specify the nature of the violation and required corrective action.
- (b) Written Notices - Written notices must stipulate the nature of the violation and the required corrective action, with deadlines for taking such action.

- (c) Citations with Administrative Penalties - The City has the authority to assess monetary penalties, which may include civil and administrative penalties.
- (d) Stop Work Orders - Stop work orders that require construction activities to be halted, except for those activities directed at cleaning up, abating discharge, and installing appropriate control measures.
- (e) Withholding of Plan Approvals or Other Authorizations - Where a facility is in noncompliance, the City's own approval process affecting the facility's ability to discharge to the MS4 can be used to abate the violation.
- (f) Additional Measures - The City may also use other escalated measures provided under local legal authorities. The City may perform work necessary to improve erosion control measures and collect the funds from the responsible party in an appropriate manner, such as collecting against the project's bond or directly billing the responsible party to pay for work and materials.

(2) Notification of Violation.

- (a) Verbal warning. Verbal warnings may be given at the discretion of the inspector when it appears the condition can be corrected by the violator within a reasonable time, which time shall be approved by the inspector.
- (b) Written Notice. Whenever the director of the Lenoir City Stormwater Department 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 director 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 director. 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 director is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to paragraphs (d) and (e) below.
- (d) Show Cause Hearing. The director may order any person who violates this ordinance or permit, or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.
- (e) Compliance Order. When the director finds that any person has violated or continues to violate this ordinance or a permit or order issued thereunder, they 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 non-compliance,

including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.

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

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

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

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

**Section 11. 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 Lenoir City Stormwater Department, 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 ordinance may be assessed a civil penalty by the Lenoir City Stormwater Department of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.
- (3) Measuring Civil Penalties. In assessing a civil penalty, the director of the Lenoir City Stormwater Department shall consider:
  - (a) The harm done to the public health or the environment;
  - (b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
  - (c) The economic benefit gained by the violator;
  - (d) The amount of effort put forth by the violator to remedy this violation;
  - (e) Any unusual or extraordinary enforcement costs incurred by the City;
  - (f) The amount of penalty established by ordinance or resolution for specific categories of violations; and
  - (g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

- (4) Recovery of Damages and Costs. In addition to the civil penalty referenced in subsection (2) and (3) above, the city may recover;
- (a) All damage proximately caused by the violator to the city, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this ordinance, or any other actual damages caused by the violation.
  - (b) The costs of the city's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this ordinance.
- (5) Referral to TDEC. In accordance with the City's Enforcement Response Plan and the NPDES Permit requirements, the City may also notify TDEC of violations.
- (6) Other Remedies. The City may bring legal action to enjoin the continuing violation of this ordinance, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.
- (7) Remedies Cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted.

## **Section 12. Appeals.**

Pursuant to Tennessee Code Annotated ' 68-221-1106(d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this ordinance may appeal said penalty or damage assessment to the city's governing body.

- (1) Appeals to be in Writing. The appeal shall be in writing and filed with the Lenoir City Mayor's Office within fifteen (15) days after the civil penalty and/or damage assessment is served in any manner authorized by law.

**Commented [SL2]:** Greg: I know we talked about using the Board of Zoning Appeals. But looks like the City had previously tagged the Mayor and Council for this function. Does the city have a preference?

- (2) Public Hearing. Upon receipt of an appeal, **the city's governing body, or other** appeals **board established by the City's governing body**, shall hold a public hearing within thirty (30) days. Ten (10) days prior notice of the time, date, and location of said hearing shall be published in a daily newspaper of general circulation. Ten (10) days' notice by registered mail shall also be provided to the aggrieved party, such notice to be sent to the address provided by the aggrieved party at the time of appeal. The decision of the governing body of the city shall be final.
- (3) Appealing Decisions of the City's Governing Body. Any alleged violator may appeal a decision of the **city's governing body** pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8.

**Commented [SL3]:** Clarify which "governing body"