GENERAL PROVISIONS

§ 152.101 OBJECTIVES.

This chapter has several complementary objectives, which although listed separately in divisions herein, are considered as a whole and are intended to protect lives and property, and to improve the Town environment by enhancing water quality in all the water bodies located within the Town limits.

(A) An objective of this chapter is to safeguard property and public welfare by regulating stormwater drainage and requiring temporary and permanent provisions for its control.

(B) An objective of this chapter is to protect, maintain, and enhance the environment of the Town and the public health, safety and the general welfare of the citizens of the Town, by controlling discharges of pollutants to the Town'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 Town.

(C) An objective of this chapter is to enable the Town to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 C.F.R. 122.26 for stormwater discharges and the provisions of the Tennessee General Construction Permit.

(D) An objective of this chapter is to authorize the Town to exercise the powers granted in Tenn. Code Ann. § 68-221-1105, which provides that, among other powers cities have with respect to stormwater facilities, is the power by ordinance or resolution to exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the Town, whether or not owned and operated by the Town.

(E) An objective of this chapter is to authorize the Town to adopt any rules and regulations deemed necessary to accomplish the objectives of this chapter, including the adoption of a system of fees for services and permits.

(F) An objective of this chapter is to authorize the Town to establish standards to regulate the quantity and quality of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality.

(G) An objective of this chapter is to authorize the Town to review and approve plans and plats for stormwater management in proposed land development activities.

(H) An objective of this chapter is to authorize the Town to issue permits for stormwater discharges, or for the construction, alteration, extension, or repair of stormwater facilities.

(I) An objective of this chapter is to authorize the Town to suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit.

(J) An objective of this chapter is to authorize the Town to regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated.

(K) An objective of this chapter is to authorize the Town to expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private.

(L) An objective of this chapter is to assign the authority and responsibility for administration of this chapter to the Town's Engineering/Development Department.

(Ord. 2012-18, passed 11-12-12)

§ 152.102 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words in the singular shall include the plural, and words in the plural shall include the singular. Words used in the present tense shall include the future tense. The word "shall" connotes mandatory and is not discretionary, while the word "may" is permissive.

ACCIDENTAL DISCHARGE. A discharge into the Town MS4, prohibited by this chapter, that occurs by chance and without planning or consideration prior to its occurrence.

ADMINISTRATIVE or ***CIVIL PENALTIES.*** Under the authority provided in Tenn. Code Ann. § 68-221-1106, any person violating the provisions of this chapter may be assessed a civil or administrative penalty by the Town of not less than $50 and not more than $5,000 per day for each day of violation. Each day of violation shall constitute a separate violation.

AS-BUILT PLANS. Drawings depicting conditions as they were actually constructed.

BMA. The Board of Mayor and Aldermen of the Town of Collierville, Tennessee.

BEST MANAGEMENT PRACTICES (BMPs). 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 site runoff, spillage or leaks, or drainage from raw material storage.

BORROW PIT. 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. A borrow pit is considered a construction activity for the purpose of this chapter.

BUFFER ZONE. A strip of dense undisturbed perennial native vegetation, either original or reestablished, that borders streams and rivers, ponds and lakes, wetlands, and seeps. Buffer zones are established for the purpose of slowing water runoff, enhancing water infiltration, and minimizing the risk of any potential nutrients or pollutants from leaving the upland area and reaching surface waters. Buffer zones are primarily established for the primary purpose of protecting water quality and maintaining a healthy aquatic ecosystem in receiving waters.

CHANNEL. A natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.

CLEAN WATER ACT or ***THE ACT.*** The Federal Water Pollution Control Act, as amended, codified at 33 U.S.C. 1251 *et seq*.

COMMERCIAL. Property devoted, in whole or part, to the exchange and buying and selling of commodities or services.

CLEARING. The removal of vegetation and disturbance of soil prior to grading or excavation in anticipation of 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. The clearing of land for agricultural purposes is exempt from Town stormwater permitting.

COMMENCEMENT OF CONSTRUCTION. The initial disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.

COMMON PLAN OF DEVELOPMENT OR SALE. Any announcement or documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, and the like) or physical demarcation (including boundary signs, lot stakes, surveyor markings, and the like) 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.

CONSTRUCTION ACTIVITY. Any clearing, grading, filling, excavating, or equipment usage that will result in the disturbance of land surface, and is subject to stormwater permit requirements under the State of Tennessee General Permit for Stormwater Discharges Associated with Construction Activities. The term shall not include:

(1) Such minor construction activities as home gardens and individual home landscaping, home repairs, home maintenance work and other related activities that result in minor soil erosion;

(2) Individual service and sewer connections for single- or two-family residences;

(3) Agricultural practices involving the establishment, cultivation or harvesting of products of the field or orchard, preparing and planting of pastureland, forestry land management practices, including harvesting, farm ponds, dairy operations, livestock and poultry management practices, and the construction of farm buildings;

(4) Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture;

(5) Installation, maintenance and repair of any underground public utility lines, when the activity occurs in an existing hard surface

road, street or sidewalk; provided the activity is confined to the area of the road, street or sidewalk that is hard surfaced, a street, curb, gutter or sidewalk permit has been obtained, and the area is less than one acre of disturbance.

CONTAMINANT. Any physical, chemical, biological, or radiological substance or matter in water.

CONTROL MEASURE. Any Best Management Practice (BMP) or other method used to prevent or reduce the discharge of pollutants to waters of the state.

CLEAN WATER ACT. The Clean Water Act of 1977 or the Federal Water Pollution Control Act.

DESIGN STORM EVENT. A hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a stormwater facility.

DEVELOPMENT. Any manmade change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or permanent storage of materials (defined as materials of a like nature stored, in whole or in part, for more than six months).

DISCHARGE. To dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the municipal separate storm sewer system.

DISCHARGE OF STORMWATER ASSOCIATED WITH CONSTRUCTION ACTIVITY. Stormwater point source discharges from areas where soil disturbing activities (e.g., clearing, grading, excavation, and the like), or construction materials or equipment storage or maintenance (e.g., earth fill piles, fueling, waste material, and the like) are located.

EASEMENT. An acquired privilege or right of use or enjoyment that a person, party, firm, corporation, municipality or other legal entity has in the land of another.

EROSION. The removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by human activities or effects.

EXCEPTIONAL TENNESSEE WATER. Surface waters of the state that satisfy characteristics of exceptional Tennessee waters as listed in Chapter 1200-4-3-.03 of the official compilation - Rules and Regulations of the State of Tennessee. Characteristics include waters designated by the Water Quality Control Board as Outstanding Natural Resource Waters (ONRW); waters that provide habitat for ecologically significant populations of certain aquatic or semi-aquatic plants or animals; waters that provide specialized recreational opportunities; waters that possess outstanding scenic or geologic values; or waters where existing conditions are better than water quality standards.

FINAL STABILIZATION. All soil disturbing activities at the site have been completed and one of the three following criteria is met:

(1) A uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a uniform density of at least 70% of the (preferably) native vegetative cover for the area 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; or

(2) 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: or

(3) For construction projects on land used for agricultural or silvicultural purposes, final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural or silvicultural use.

HOTSPOT. An area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. The following land uses and activities are deemed stormwater hot spots, but that term is not limited to only these land uses:

(1) Vehicle salvage yards and recycling facilities;

(2) Vehicle service and maintenance facilities;

(3) Vehicle and equipment cleaning facilities;

(4) Fleet storage areas (bus, truck, and the like);

(5) Industrial sites (included on standard industrial classification code list);

(6) Marinas (service and maintenance);

(7) Public works storage areas;

(8) Facilities that generate or store hazardous waste materials;

(9) Commercial container nursery;

(10) Restaurants and food service facilities;

(11) Other land uses and activities as designated by the Town's Engineering/Development Department.

ILLICIT CONNECTIONS. Illegal and/or unauthorized connections to the municipal separate storm sewer system whether or not the connections result in discharges into that system.

ILLICIT DISCHARGE. Any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted herein.

IMPAIRED WATERS. Any segment of surface waters that has been identified by the Division of Water Pollution Control of the State of Tennessee, Department of Environment and Conservation as failing to support one or more classified uses.

IMPERVIOUS. Not allowing the passage of water through the surface of the ground or ground covering, or a substantial reduction in the capacity for water to pass through the surface of the ground or ground covering.

INDUSTRIAL FACILITY. A business engaged in industrial production or service that is characterized by manufacturing or productive enterprise or a related service business. An industrial facility is subject to the Tennessee Multi-Sector Permit (TMSP) for Stormwater Discharges Associated with Industrial Activity.

INSPECTOR. A person that has successfully completed and has a valid certification from the Fundamentals of Erosion Prevention and Sediment Control Level I or equivalent course.

INSTITUTIONAL. An established organization, especially of a public or charitable nature.

JUNK MOTOR VEHICLE. Any vehicle that is self-propelled and designed to travel along the ground, and shall include, but not be limited to: automobiles, buses, motor bikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, campers and trailers; any of which does not have lawfully affixed thereto a valid license plate or plates, and/or is in the condition of being wrecked, dismantled, inoperative, abandoned or discarded.

LAND DISTURBING ACTIVITY. Any activity 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.

LINEAR PROJECT. A land disturbing activity as conducted by an underground/overhead utility or highway department, including but not limited to any cable line or wire for the transmission of electrical energy, any conveyance pipeline for transportation of gaseous or liquid substance, any cable line or wire for communications, or any other energy resource transmission right-of-way or utility infrastructure.

(1) Activities include the construction and installation of these utilities within a corridor. Linear project activities also include the construction of access roads, staging areas, and borrow/spoil sites associated with the linear project.

(2) Land disturbance specific to the development of residential and/or commercial subdivision or high-rise structures is not considered a linear project.

MAINTENANCE. Any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater facility.

MAINTENANCE AGREEMENT. A document recorded in the Shelby County Register's office that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4). The conveyances owned or operated by the Town 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, and where the context indicates, it means the municipality that owns the separate storm

sewer system.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT. A permit issued pursuant to 33 U.S.C. 1342.

NOTICE OF INTENT (NOI). A written notice by the discharger to the Commissioner of the Tennessee Department of Environment and Conservation, or his or her designee, that a person wishes his or her discharge to be authorized under a general permit authorized by state law or regulation.

NOTICE OF TERMINATION (NOT). Notice that coverage under the construction general permit is terminated due to completion of the project and cessation of land disturbing activities.

OFF-SITE FACILITY. A structural BMP located outside the subject property boundary described in the permit application for land development activity.

ON-SITE FACILITY. A structural BMP located within the subject property boundary described in the permit application for land development activity.

OPERATOR. Any person associated with a construction project that meets either of the following two criteria:

(1) The person who has operational or design control over construction plans and specifications, including the ability to make modifications to those plans and specifications. This person is typically the owner or developer of the project or a portion of the project, and is considered the primary permittee; or

(2) The person who has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a SWPPP for the site or other permit conditions. This person is typically a contractor or a commercial builder who is hired by the primary permittee, and is considered a secondary permittee.

(3) It is anticipated that at different phases of a construction project, different types of parties may satisfy the definition of ***OPERATOR.***

PEAK FLOW. The maximum instantaneous rate of flow of water at a particular point resulting from a storm event.

PERSON. Any, and all persons, natural or artificial, including any individual, firm, association, partnership, co-partnership, company, governmental or private entity organized or existing under the laws of the State of Tennessee or any other state or country.

POINT SOURCE. 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, and forest lands or return flows from irrigated agriculture or agricultural stormwater runoff.

PRIORITY CONSTRUCTION ACTIVITY. Any construction activity discharging directly into, or immediately upstream of, waters the state recognizes as impaired (for siltation or habitat alteration) or exceptional Tennessee waters, and other construction activity as identified by the Town's Engineering/Development Department. For priority construction activity the Town shall conduct pre-construction meetings with construction-site operators and monthly site inspections.

QUALITY ASSURANCE SITE ASSESSMENT. Documented site inspection to verify the functionality and performance of the SWPPP and for determining if construction, operation and maintenance comply with permit requirements, as presented in the narrative, engineering specifications, maps, plans and drawings, and details for erosion prevention, sediment control and stormwater management.

REDEVELOPMENT. Any development on a site where previous development has occurred that is subject to the Tennessee General Permit for Construction Activities.

REGISTERED ENGINEER AND REGISTERED LANDSCAPE ARCHITECT. An engineer or landscape architect certified and registered by the State Board of Architectural and Engineer Examiners pursuant to Tenn. Code Ann. §§ 62-2-101 *et seq*. to practice in the state.

REGIONAL FACILITY. A storm water management facility designed to serve two or more properties and 100 or more acres of drainage area.

RUNOFF. That portion of the precipitation on a drainage area that is discharged from the area into the municipal separate storm

sewer system.

SEDIMENT. Solid material, both inorganic and organic, that is in suspension, is being transported, or has been moved from the original site by wind, water, gravity, or ice as a product of erosion and has come to rest on the earth's surface either above or below sea level.

SEDIMENT BASIN. A temporary basin consisting of an embankment constructed across a wet weather conveyance, or an excavation that creates a basin or by a combination of both, constructed to capture sediment on the construction site to prevent downstream water quality impairment.

SEDIMENTATION. The action or process of forming or depositing sediment, and where the context indicates the soil particles suspended in stormwater that can settle in stream beds.

SIGNIFICANT CONTRIBUTOR OF POLLUTANTS. Any discharge containing pollutants that are reasonably expected to cause or contribute to an impairment of receiving stream water quality or designated uses.

SIGNIFICANT SPILLS. Releases of oil or hazardous substances in excess of reportable quantities the Clean Water Act or the Comprehensive Environmental Response Compensation and Liability Act (CERCLA).

SOILS REPORT. A study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineering professional, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees conducting the investigation.

STABILIZATION. The provision of adequate measures, vegetative and/or structural, that will prevent soil erosion from occurring.

STEEP SLOPE. A natural or created slope of 35% grade or greater. Designers of sites with steep slopes must pay attention to stormwater management in the SWPPP to engineer runoff nonerosively around or over a steep slope.

STORMWATER. Water induced or created from precipitation, whether rain, snow or ice, and either stored, collected, detained, absorbed or discharged. The definition also includes street wash waters related to street cleaning or maintenance, and groundwater infiltration into pipes and drainage structures.

STORMWATER DISCHARGE-RELATED ACTIVITIES. Activities which cause, contribute to, or result in point source stormwater pollutant discharges, including but not limited to excavation, site development, grading and other surface disturbance activities; and measures to control stormwater including the citing, construction and operation of best management practices (BMPs) to control, reduce or prevent stormwater pollution.

STORM WATER MANAGEMENT. The collection, conveyance, storage, treatment and disposal of storm water in a manner to meet the objectives of this chapter and its terms, including but not limited to measures that control the increased volume and rate of storm water runoff and water quality impacts caused or induced by manmade changes to land at pre-development levels.

STORMWATER MANAGEMENT FACILITIES. The stormwater management control devices, structures, conduits, ponds, ditches, combined sewers, sewers, and all or system of such physical components designed to treat, detain, store, convey, absorb, conserve, protect or otherwise control storm water.

STORMWATER MANAGEMENT PLAN. The set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMP's, concepts and techniques intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP). A written plan that includes site map(s), an identification of construction/contractor activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants. The SWPPP should be prepared in accordance with the Tennessee Erosion and Sediment Control Handbook.

STREAM. A surface water that is not a wet weather conveyance as defined herein.

STRUCTURAL BMPs. Facilities that are constructed to provide control of stormwater runoff.

SURFACE WATER. 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.

TEMPORARY STABILIZATION. The temporary condition that exists when vegetation and/or a non-erodible surface have been established on the area of disturbance and construction activity has temporarily ceased.

TOXIC POLLUTANT. Any pollutant or combination of pollutants listed as toxic in 40 C.F.R. Part 401, promulgated by the EPA under the provisions of 33 U.S.C. 1317.

TURBIDITY. The cloudiness or haziness of a fluid caused by individual particles (suspended solids) that are generally invisible to the naked eye.

WASTE SITE. An area where waste material from a construction site is deposited. When the material is erodible, such as soil, the site must be treated as a construction site.

WATERCOURSE. A permanent or intermittent stream or other body of water, either natural or man-made, which collects or carries surface water. See ***STREAM.***

WATER QUALITY. Characteristics that are related to the physical, chemical, biological, and/or radiological nature of storm water.

WATER QUALITY BUFFER. A setback from the top of water body's bank of undisturbed vegetation, including trees, shrubs and herbaceous vegetation; enhanced or restored vegetation; or the re-establishment of native vegetation bordering streams, ponds, wetlands, springs, reservoirs or lakes, which exists or is established to protect those water bodies.

WATERSHED. All the land area that contributes runoff to a particular point along a waterway.

WATERS OF THE STATE. 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.

WETLAND(S). Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted to life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs, and similar areas.

WET WEATHER CONVEYANCES. Man-made or natural watercourses, including natural watercourses that have been modified by channelization, that flow only in direct response to precipitation runoff in their immediate locality and whose channels are at all times above the groundwater table and are not suitable for drinking water supplies, and in which hydrological and biological analyses indicate that, under normal weather conditions, due to naturally occurring ephemeral or low flow, there is not sufficient water to support fish or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two months.

(Ord. 2012-18, passed 11-12-12)

§ 152.103 ABBREVIATIONS.

For the purposes of this chapter, the following abbreviations shall apply unless the context clearly indicates or requires a different meaning.

ARAP. Aquatic Resource Alteration Permit.

BMP. Best Management Practice.

CERCLA. The Comprehensive Environmental Response, Compensation and Liability Act.

C.F.R. The Code of Federal Regulations.

CGP. General NPDES Permit for Discharges of Stormwater Associated with Construction Activities.

CWA. Clean Water Act.

EPA. Environmental Protection Agency.

EPSC. Erosion Prevention and Sediment Control.

FEMA. The Federal Emergency Management Agency.

MS4. Municipal Separate Storm Sewer System.

NOC. Notice of Coverage.

NOI. Notice of Intent.

NOT. Notice of Termination.

NPDES. National Pollutant Discharge Elimination System.

POTW. Publicly Owned Treatment Works.

SWPPP. Storm Water Pollution Prevention Plan.

TDEC. Tennessee Department of Environment and Conservation.

TDOT. Tennessee Department of Transportation.

TCA. Tennessee Code Annotated.

TMSP. Tennessee Multi-Sector Permit (TMSP) for Storm Water Discharges Associated with Industrial Activity.

TWQCA. Tennessee Water Quality Control Act.

TNCGP. Tennessee Construction General Permit.

USACOE. United States Army Corps of Engineers.

U.S.C. United States Code.

USGS. United States Geological Survey.

(Ord. 2012-18, passed 11-12-12)

§ 152.104 CONFLICT.

To the extent its provisions conflict or overlap with other Town ordinances or regulations, it is the intent of this chapter that the provision that is more restrictive or imposes higher standards or requirements shall govern.

(Ord. 2012-18, passed 11-12-12)

§ 152.105 WAIVERS.

Waivers for stormwater management will not be granted for any construction or site work project. All construction and site work projects shall provide for on-site or off-site stormwater management as required by this chapter.

(Ord. 2012-18, passed 11-12-12)

LAND DEVELOPMENT AND CONSTRUCTION REQUIREMENTS

§ 152.200 LAND DEVELOPMENT AND CONSTRUCTION ACTIVITIES.

Land development and construction activities are a primary source of stormwater pollution, and can cause significant environmental damage to the streams and waterways of the Town if not properly managed.

(Ord. 2012-18, passed 11-12-12)

§ 152.201 APPLICABILITY.

The provisions of this chapter shall be applicable to all land development and construction activities, including, but not limited to, site plan applications and subdivision applications. These standards apply to any new development or redevelopment site that meets one or

more of the following criteria:

(A) Any new development or redevelopment site that involves land development activities of one acre or more.

(B) Projects or developments of less than one acre of total land disturbance may also be required to comply with the provisions of this chapter if:

(1) The stormwater discharge from a site is causing, contributing to, or is likely to contribute to a violation of a state water quality standard;

(2) The stormwater discharge is, or is likely to be a significant contributor of pollutants to waters of the state;

(3) Changes in state or federal rules require sites of less than one acre that are not part of the of a large common plan of development or sale to obtain a stormwater permit;

(4) Any new development or redevelopment, regardless of size, that is defined by as a hotspot land use; or

(5) Minimum applicability criteria set forth in division (A) above, if the activities are part of a larger common plan of development, even multiple that is part of a separate and distinct land development activity that may take place at different times on different schedules.

(Ord. 2012-18, passed 11-12-12)

§ 152.202 DESIGN STANDARDS.

(A) The Town adopts as its MS4 stormwater design and best management practices (BMPs) manuals for stormwater management, construction and permanent, the following publications, which are incorporated by reference in this chapter as if fully set out herein:

(1) TDEC Erosion Prevention and Sediment Control Handbook, most current edition.

(2) Town of Collierville Stormwater Drainage Manual, most current edition.

(3) A collection of Town approved BMPs developed or collected by the Town that comply with the goals of the Town's MS4 permit and/or the CGP.

(4) This chapter.

(B) The Town's BMP manual(s) include a list of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each stormwater practice. These include Town approved BMPs for permanent stormwater management, including green infrastructure BMPs.

(C) The Town manual(s) may be updated and expanded from time to time, at the discretion of the Town's Engineering/Development Department, based on improvements in engineering, science, monitoring and local maintenance experience, or changes in federal or state law or regulation. Stormwater facilities that are designed, constructed and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.

(D) Stormwater quantity control is an integral component of overall stormwater management. Quantity control is effectively flood control, reducing potential damages and health risks, but because uncontrolled runoff can cause erosion, it can also be a form of water quality control. All projects meeting the applicability requirements of this chapter shall provide a permanent stormwater storage facility, unless certain criteria are met as determined by the Town Engineer, or his or her designee, which shall be based on qualified studies submitted by the engineer of record. Exceptions to stormwater quantity requirements shall be made based on criteria, including but not limited to the following:

(1) Redevelopment projects where post-redevelopment conditions reduces the flow rate from existing conditions.

(2) The site is located in the lower portion of the drainage basin (generally lower one-fourth) and requiring a storage facility would have a negative effect on the stormwater drainage system.

(3) There is a regional detention facility which provides for stormwater management of the site.

(4) There is excess capacity of the existing stormwater drainage system to convey the 100-year storm event for the drainage basin in a fully developed condition.

(5) Additional criteria as set by the Town's Engineering/Development Department.

(E) The following design criteria are established for stormwater quantity control. Stormwater quantity designs shall meet the multi-stage storm frequency storage requirements as identified below. In the case of a discrepancy between this chapter and the Town of Collierville Drainage Manual, most current edition, the most stringent requirement(s) will apply.

(1) All stormwater storage facilities shall be designed such that the maximum allowable release rate of stormwater runoff generated on-site shall not exceed the pre-development peak rate of runoff as calculated by the engineer of record for the two-year, ten-year and 25-year storm event using methods outlined in the Town of Collierville Drainage Manual or other standard engineering methods as approved by the Town's Engineering/Development Department.

(2) Earthen stormwater storage facilities shall be designed with an emergency spillway sized to carry the 100-year storm event while maintaining a one foot freeboard between the top of the embankment and water surface elevation.

(F) All calculations shall be performed by an engineer registered in the state.

(G) Urban areas have two separate and distinct drainage systems that function to remove excess precipitation with minimum inconvenience and property damage. This dual system is comprised of a minor (active) system and a major (passive) system. The minor system includes the curb and gutter area of the street, roadside ditches, inlets, storm sewers, culverts, channels, or other conveyance facilities designed to convey the design storm runoff. The major system comes into operation once the minor system's capacity is exceeded. The major system consists of excess capacity in storm sewers, culverts, streets, property line drainage swales, and other natural and lined channels. The capacity of the major system shall have capacity to convey the major storm runoff without life hazard or property damage.

(1) Design storm frequency for land use/development type for the minor (active) system shall be as follows:

(a) Residential - 25 years;

(b) Commercial/business/industrial - 25 years;

(c) Critical areas (hospitals, interstates) - 50 years.

(2) Design storm frequency per street classification for the minor (active) system shall be as follows:

(a) Locals - 25 years;

(b) Collectors - 25 years;

(c) Arterials - 50 years.

(3) Design storm frequency for the major (passive) system shall be 100 years.

(H) The methodology for hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms is specified in the BMP Manual. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this chapter and the guidelines of the Town of Collierville Drainage Manual. Required calculations 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;

(4) Peak runoff rates and total runoff volumes for each watershed area;

(5) Infiltration rates, where applicable;

(6) Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;

(7) Flow velocities;

(8) Data on the increase in rate and volume of runoff for the required design storms; and

(9) Documentation of sources for all computation methods and field test results.

(I) If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the

Town's Engineering/Development Department may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

(Ord. 2012-18, passed 11-12-12)

§ 152.203 STORMWATER MANAGEMENT PLAN.

(A) Every land development or construction activity that results in the discharge of stormwater to the Town stormwater management facilities, including but not limited to, detention ponds, rain gardens, underground storage, and any other facility intended to manage stormwater quality or quantity shall furnish a stormwater management plan to the Town. The stormwater management plan (narrative and/or plan sheets) shall include sufficient information to allow the Town 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.

(B) To accomplish this goal the stormwater management plan shall include the following:

(1) *Topographic base map.* Topographic base map of the site which extends a minimum of 100 feet beyond the limits of the proposed development and indicates:

(a) Existing surface water drainage including streams, ponds, culverts, ditches, sink holes, wetlands, and the type, size, elevation, and the like, of nearest upstream and downstream drainage structures;

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

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

(d) 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;

(2) Proposed structural and non-structural BMPs;

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

(4) *Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in the Town's BMP manual or this chapter.* These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this chapter and the guidelines of the Town's BMP manual. These calculations shall include:

(a) A description of the design storm frequency, duration, and intensity where applicable;

(b) Time of concentration;

(c) Soil curve numbers or runoff;

(d) Peak runoff rates and total runoff volumes for each watershed area;

(e) Infiltration rates, where applicable;

(f) Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;

(g) Flow velocities;

(h) Data on the increase in rate and volume of runoff for the design storms referenced in the Town's BMP manual; and

(i) Documentation of sources for all computation methods and field test results.

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

(Ord. 2012-18, passed 11-12-12)

§ 152.204 REQUIRED PERMITS.

(A) Any person who intends to discharge stormwater from construction or reconstruction sites to the Town stormwater system must provide proof of coverage (NOC) under the General NPDES Permit for discharges of stormwater associated with construction activities (CGP) prior to commencing any land disturbing activity.

(B) Prevention Plan (SWPPP), Notice of Intent for Stormwater Discharges from Construction Activity (NOI), and a Notice of Coverage (NOC), and any additional applicable local, state or federal permits (i.e.: ARAP, and the like) to the Town's Engineering/Development Department for review and approval prior to commencement of construction.

(C) Upon project completion, a copy of the Notice of Termination (NOT) must be submitted to the Town's Engineering/Development Department.

(Ord. 2012-18, passed 11-12-12)

§ 152.205 STORMWATER POLLUTION PREVENTION PLAN.

(A) Any person who intends to commence construction or land development activities in the Town must prepare and implement a Stormwater Pollution Prevention Plan (SWPPP) that complies with this chapter and the CGP for all construction activities.

(B) The purpose of this plan is to identify construction/contractor activities that could cause pollutants in the stormwater, and to describe measures or practices to control these pollutants during project construction.

(C) The SWPPP shall accurately describe the potential for soil erosion and sedimentation problems resulting from land disturbing activity and shall explain and illustrate the measures that are to be taken to control these problems.

(D) 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. All plans shall be phased in accordance with the CGP. As necessary, the plan shall be phased so that changes to the site during construction that alter drainage patterns will be addressed by an appropriate phase of the plan.

(E) The plan shall be sealed by a registered professional engineer or landscape architect licensed in the state. The plan shall conform to the requirements of this chapter and the CGP.

(Ord. 2012-18, passed 11-12-12)

§ 152.206 WATER QUALITY BUFFERS.

(A) The goal of the water quality buffer is to preserve undisturbed vegetation that is native to the streamside habitat in the area of the project. Vegetated, preferably native, water quality buffers protect water bodies by providing structural integrity and canopy cover, as well as stormwater infiltration, filtration and evapotranspiration.

(B) The buffer width depends on the size of a drainage area. Streams or other waters with drainage areas less than one square mile will require buffer widths of 30 feet minimum. Streams or other waters with drainage areas greater than one square mile will require buffer widths of 60 feet minimum. The 30-feet criterion for the width of the 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 15 feet at any measured location. The 60-feet criterion for the width of the 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 30 feet at any measured location. The Town Engineer shall determine the circumstances under which the average will be available. A determination that standards cannot be met may not be based solely on the difficulty or cost associated with implementation. Every attempt should be made for development and redevelopment activities not to take place within the buffer zone.

(C) If water quality buffer width as defined above cannot be fully accomplished on-site, the Town Engineer shall determine the circumstances under which alternative buffer widths will be available. A determination that water quality buffer widths cannot be met on site may not be based solely on the difficulty or cost of associated with implementation, but must include multiple criteria, such as type of project, existing land use and physical conditions that preclude use of these practices.

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

(E) Rehabilitation and enhancement of a natural buffer zone is allowed, if necessary, for improvement of its effectiveness of

protection of the waters of the state.

(F) Water quality buffers shall be clearly marked on site development plans, grading permit applications, and/or concept plans.

(G) *Buffer zone requirements.*

(1) Construction applies to all streams adjacent to construction sites, with an exception for streams designated as impaired or exceptional Tennessee waters, as designated by the Tennessee Department of Environment and Conservation. A 30-foot natural riparian buffer zone adjacent to all streams at the construction site shall be preserved, to the maximum extent practicable, during construction activities at the site. The water quality buffer zone is required to protect waters of the state located within or immediately adjacent to the boundaries of the project, as identified using methodology from standard operating procedures for hydrologic determinations (see rules to implement a certification program for qualified hydrologic professionals, TN Rules Chapter 0400-40-17). The buffer zone requirement only applies to new construction sites. The riparian buffer zone should be preserved between the top of stream bank and the disturbed construction area. The 30-feet criterion for the width of the 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 15 feet at any measured location.

(2) *Buffer zone requirements for discharges into impaired or exceptional Tennessee waters.* A 60-foot natural riparian buffer zone adjacent to the receiving stream designated as impaired or high quality waters shall be preserved, to the maximum extent practicable, during construction activities at the site. The water quality buffer zone is required to protect waters of the state (e.g., perennial and intermittent streams, rivers, lakes, wetlands) located within or immediately adjacent to the boundaries of the project, as identified on a 7.5-minute USGS quadrangle map, or as determined by the director. Buffer zones are not sediment control measures and should not be relied upon as primary sediment control measures. Rehabilitation and enhancement of a natural buffer zone is allowed, if necessary, for improvement of its effectiveness of protection of the waters of the state. The buffer zone requirement only applies to new construction sites. The riparian buffer zone should be established between the top of stream bank and the disturbed construction area. The 60-feet criterion for the width of the 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 30 feet at any measured location.

(3) Permanent new development and significant redevelopment sites are required to preserve water quality buffers along streams within the MS4. Alternatives to installing new or expanding existing buffer zones may be considered on a case-by-case basis for redevelopment sites. Buffers shall be clearly marked on site development plans, grading permit applications, and/or concept plans. Buffer width depends on the size of a drainage area. Streams or other waters with drainage areas less than one square mile will require buffer widths of 30 feet minimum. The 30-feet criterion for the width of the 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 15 feet at any measured location. Streams or other waters with drainage areas greater than one square mile will require buffer widths of 60 feet minimum. The 60-feet criterion for the width of the 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 30 feet at any measured location.

(Ord. 2012-18, passed 11-12-12)

§ 152.207 RUNOFF REDUCTION.

The State of Tennessee issues to the Town of Collierville an NPDES General Permit for Discharges from Small Municipal Separate Storm Sewer Systems, which requires permanent stormwater management. Site designs for all new and redevelopment projects approved after the State established implementation date shall require management measures that are designed, built and maintained to infiltrate, evapotranspire, harvest and/or use, at a minimum, the first inch of every rainfall event preceded by 72 hours of no measurable precipitation. This first inch of rainfall must be 100% managed with no discharge to surface waters, except as provided herein.

(A) Application of runoff reduction requirements may not be appropriate in all circumstances. Alternate treatment approaches may be approved where there is a potential for introducing pollutants into the groundwater, where pre-existing soil contamination is present in areas subject to contact with infiltrated runoff, or where there is the presence of sinkholes or other karst features.

(B) Pre-development infiltrative capacity of soils at the site must be taken into account in selection of runoff reduction management measures.

(C) For developments that cannot meet 100% of the runoff reduction requirement, the remainder of the stipulated amount of rainfall must be treated prior to discharge with a technology documented to remove 80% total suspended solids (TSS) unless an alternative provided under this ordinance is approved. The treatment technology must be designed, installed and maintained to continue to meet this performance standard.

(D) For developments that cannot meet 100% of the runoff reduction requirements, alternative runoff reduction measures may be implemented at another location, preferably within the same USGS 12-digit hydrologic unit code (HUC) as the original development. Off-site mitigation must be a minimum of 1.5 times the amount of water not managed on site. The off-site mitigation location (or alternative location outside the 12-digit HUC) and runoff reduction measures must be approved by the Town's Engineering/Development Department. The Town's Engineering/Development Department shall aid in identifying priority areas within the watershed in which mitigation projects can be completed. The Town's Engineering/Development Department shall create an inventory of appropriate mitigation projects, and develop appropriate institutional standards and management systems to value, evaluate and track transactions. Mitigation can be used for retrofit or redevelopment projects, but should be avoided in areas of new development.

(E) For developments that cannot meet 100% of the runoff reduction and pollutant removal standards and cannot provide for off-site mitigation, the owner may make payment into a public stormwater project fund to be established by the Town. The payment into the fund by the owner shall be 1.5 times the estimated cost of on-site runoff reduction controls.

(1) Funds from the payment in lieu of runoff reduction and pollutant removal shall be used by the Town to construct and maintain detention and conveyance systems within the town.

(2) Acceptance of payment in lieu of runoff reduction and pollutant removal is not automatic and must be considered on a case-by-case basis.

(3) If payment in lieu of runoff reduction and pollutant removal is approved, the developer is still responsible for conveying and managing stormwater runoff from the development to the existing storm drainage system in accordance with the requirements of this section.

(F) Stormwater discharges to critical areas with sensitive resources (e.g., recharge areas, wetlands) may be subject to additional performance criteria as determined by the town's Engineering/Development Department, or may need to utilize or restrict certain stormwater management practices.

(G) Stormwater discharges from hot spots may require the application of specific structural BMP's and pollution prevention practices. Stormwater from a hot spot land use may not be infiltrated.

(H) Prior to or during the site design process, applicants shall consult with the town's Engineering/Development Department to determine if they are subject to additional stormwater requirements.

(Ord. 2012-18, passed 11-12-12; Am. Ord. 2015-03, passed 3-23-15)

§ 152.208 RUNOFF REDUCTION CREDITS.

Incentives for construction sites may be approved after the implementation date that allow a 10% reduction in the volume of rainfall to be managed for redevelopment projects, projects with density that exceeds seven units per acre, or projects with a Floor to Area Ratio (FAR) of two. The credits are additive such that a maximum reduction of 30% of the standard established herein is possible for a development that meets all three of the above criteria.

(Ord. 2012-18, passed 11-12-12; Am. Ord. 2015-03, passed 3-23-15)

§ 152.209 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 no later than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased.

(B) Steep slopes shall be temporarily stabilized not later than seven days after construction activity on the slope has temporarily or permanently ceased.

(C) Permanent stabilization with perennial vegetation (using native herbaceous and woody plants where practicable) or other permanently stable, non-eroding surface shall replace any temporary measures as soon as practicable. 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.

(D) 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 90% of the seeded area.

(E) Every stabilized area must exhibit survival of a minimum of 70% of the cover crop throughout the year immediately following stabilization. Revegetation must be repeated in successive years until the minimum 70% survival for one year is achieved.

(F) In addition to the above requirements, a landscaping plan must be included describing the vegetative stabilization and management techniques to be used at the site after construction is completed. This plan must specify 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 permanently preserved.

(Ord. 2012-18, passed 11-12-12)

§ 152.210 MONITORING AND INSPECTIONS OF CONSTRUCTION SITES BY TOWN.

The Town Engineer, or his or her designee, shall monitor and conduct periodic inspections of active and inactive construction sites to determine compliance with the CGP and SWPPP. Deficiencies noted during these monitoring and inspection activities will be corrected as directed by the Town Engineer, or his or her designee, as stated in the enforcement section of this chapter.

(Ord. 2012-18, passed 11-12-12)

§ 152.211 INSPECTIONS AND MAINTENANCE BY OWNER/OPERATOR.

The owner/operator shall conduct inspections of permitted construction sites to ensure compliance with the CGP and SWPPP. These inspections shall be made in accordance with the requirements of the CGP. Maintenance needs identified in inspections or by other means shall be accomplished before the next storm event, but in no case more than seven days after the need is identified.

(Ord. 2012-18, passed 11-12-12)

§ 152.212 CONSTRUCTION SITE POSTING.

(A) The developer shall post a notice near the main entrance of the construction site accessible to the public with the following information:

(1) A copy of the NOC with the NPDES permit tracking number for the construction project;

(2) Name, company name, email address (if available), telephone number and address of the project site owner/operator or a local contact person;

(3) A brief description of the project; and

(4) The location of the SWPPP (see CGP).

(B) The notice must be maintained in a legible condition. If posting this information near a main entrance is infeasible due to safety concerns, or not accessible to the public, the notice shall be posted in a local public building. If the construction project is a linear construction project (e.g., pipeline, highway, and the like), the notice must be placed in a publicly accessible location near where

construction is actively underway and moved as necessary. This permit does not provide the public with any right to trespass on a construction site for any reason, including inspection of a site. This permit does not require that permittees allow members of the public access to a construction site.

(C) The developer shall also retain following items/information in an appropriate location on-site:

(1) Rain gauge;

(2) A copy of twice weekly inspection reports;

(3) A documentation of quality assurance site assessments, if applicable (see CGP); and

(4) A copy of the site inspector's Fundamentals of Erosion Prevention and Sediment Control Level 1 certification.

(Ord. 2012-18, passed 11-12-12)

§ 152.213 AS-BUILT DRAWINGS.

All persons are required to submit as-built plans for any structures located on-site after final construction is completed. The plan must show the final design configurations for all stormwater management facilities and must be sealed by a registered professional surveyor or registered professional engineer licensed to practice in Tennessee. A final inspection by the Town is required before any performance security will be released.

(Ord. 2012-18, passed 11-12-12)

§ 152.214 PERMANENT STORMWATER MAINTENANCE PLAN AND AGREEMENT.

(A) Every land development or construction activity that results in the construction of permanent stormwater management facilities, including but not limited to, detention ponds, rain gardens, underground storage, and any other facility intended to manage stormwater quality or quantity shall provide to the Town a permanent stormwater maintenance plan and agreement that provides for the perpetual care and maintenance of the stormwater management facilities for the development.

(B) The maintenance agreement 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.

(C) The maintenance agreement for permanent stormwater management shall be fully executed by the person responsible for permanent maintenance prior to commencement of construction.

(D) The maintenance agreement shall 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. The maintenance agreement will identify the parts or components of the stormwater management facility that need to be maintained and the equipment and skills or training necessary for the required maintenance.

(E) The maintenance agreement shall provide for a periodic inspection by the property owners in accordance with the requirements of below divisions for the purpose of documenting maintenance and repair needs and to ensure compliance with the requirements of this chapter. The property owners will arrange for these inspections to be conducted by a person familiar with site specific stormwater management measures, who will submit a signed written report of the inspection to the Town's Engineering/Development Department. It shall also grant permission to the Town to enter the property at reasonable times and to inspect the stormwater facility to ensure that it is being properly maintained.

(F) The maintenance agreement shall provide that the minimum maintenance and repair needs include, but are not limited to, the removal of silt, litter and other debris, the cutting of grass, cutting and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other stormwater facilities. It shall also provide that the property owners shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the Town's BMP manual.

(G) The maintenance agreement shall provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the Town's Engineering/Development Department.

(H) The maintenance agreement shall provide that if the property is not maintained or repaired within the prescribed schedule, the Town 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 Town's cost of performing the maintenance shall be a lien against the property.

(I) A stormwater maintenance and repair plan shall be prepared and included as an exhibit to the stormwater maintenance agreement. The design and planning of all permanent stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. The plan will identify the parts or components of any stormwater management facility that needs to be maintained and the equipment and skills or training necessary to complete the maintenance. 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.

(Ord. 2012-18, passed 11-12-12)

§ 152.300 EXISTING FACILITIES AND NEW DEVELOPMENTS.

The MS4 permit issued to the Town by the Tennessee Department of Environment and Conservation requires the Town to monitor stormwater management facilities that were constructed prior to and after the adoption of this chapter to assure that these facilities are maintained properly and perform the intended function.

(Ord. 2012-18, passed 11-12-12)

§ 152.301 APPLICABILITY.

Every permanent stormwater management facility existing at the time of and after the adoption of this chapter, including but not limited to, detention ponds, rain gardens, underground storage, and any other facility intended to manage stormwater quality or quantity shall provide for the perpetual care and maintenance of the stormwater management facilities.

(Ord. 2012-18, passed 11-12-12)

§ 152.302 OPERATIONS AND MAINTENANCE.

(A) Parties responsible for the operation and maintenance of a stormwater management facility approved after the adoption of this chapter shall maintain 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 years. These records shall be made available to the Town during inspection of the facility and at other reasonable times upon request.

(B) The owners and/or the operators of stormwater management facilities shall perform routine inspections to ensure that the stormwater management facilities 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 site specific stormwater management measures.

(C) In the event that there is not a maintenance agreement for any existing facility, the Town's Engineering/Development Department shall in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problems affecting or caused by the 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 stormwater management facilities that have not been maintained and/or inspected in accordance with this chapter shall be regarded as illicit.

(D) The owners and/or the operators of stormwater management facilities approved after the adoption of this chapter shall perform comprehensive inspection of all stormwater management facilities and review management practices at least once every five years. These inspections and reviews must be conducted by either a professional engineer or landscape architect, licensed in the state. The owners or operators shall maintain documentation of these inspections and shall submit this documentation to the Town's Engineering/Development Department upon request. Complete inspection reports for these five year inspections shall include the following:

(1) Facility type;

(2) Inspection date;

(3) Latitude and longitude and nearest street address;

(4) Facility owner information (e.g. name, address, phone number, fax, and email);

(5) A description and photographic documentation of condition of the stormwater management facilities, including vegetation and soils, inlet and outlet channels and structures, embankments, slopes, safety benches, spillways, weirs, and other control structures. Any sediment and debris accumulation shall be noted.

(6) A list of specific maintenance items or violations that need to be corrected by the stormwater management facilities owner, including deadlines and re-inspection dates.

(Ord. 2012-18, passed 11-12-12)

§ 152.303 TOWN INSPECTIONS.

(A) The Town may enter and inspect private property for the purpose of determining if there are illicit non-stormwater discharges, and to verify that all stormwater management facilities are functioning as designed.

(B) Inspections may be conducted on any reasonable basis, including but not limited to routine inspections, random inspections, inspections based upon complaints or other notice of possible violations, and inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants.

(C) 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 stormwater control facilities.

(Ord. 2012-18, passed 11-12-12)

§ 152.304 CORRECTION BY TOWN.

In the event that the stormwater management facility is not maintained as required by this chapter, the Town Engineer, or his or her designee, shall notify in writing the person responsible for maintenance of the stormwater management facility. The responsible person shall have 30 calendar days to complete the maintenance and repair of the facility in an approved manner. If the responsible person fails or refuses to meet the maintenance standards required for stormwater facilities under this chapter, the Town, after reasonable notice, may correct a violation of the maintenance needs by performing all necessary work to place the facility in proper working condition. The cost of any action by the Town under this section shall be charged to the responsible party.

(Ord. 2012-18, passed 11-12-12)

ILLICIT DISCHARGES

§ 152.400 ILLICIT DISCHARGES.

No person shall introduce or cause to be introduced into the municipal separate storm sewer system (MS4) any discharge that is not composed entirely of stormwater, except as stated in this chapter, and any discharge that flows into the MS4 that is not accordance with the provisions of this chapter shall be an illicit discharge.

(Ord. 2012-18, passed 11-12-12)

§ 152.401 APPLICABILITY.

(A) The construction, use, maintenance or continued existence of illicit connections to the municipal separate storm sewer system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(B) Prohibited 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, or improper disposal of auto and household toxics.

(C) The Town shall take appropriate steps to detect and minimize illicit connections to the Town MS4, including the adoption of programs to identify illicit discharges and their source or sources, and to provide for public education, public information and other appropriate activities to facilitate the proper management and disposal of used oil, toxic materials and household hazardous waste.

(D) The commencement, conduct or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited except as described as follows:

(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 waters;

(5) Uncontaminated ground water infiltration;

(6) Uncontaminated pumped ground water;

(7) Discharges from potable water sources;

(8) Uncontaminated air conditioning condensate;

(9) Irrigation water;

(10) Springs;

(11) Water from crawl spaces;

(12) Foundation or footing drains;

(13) Lawn watering;

(14) Individual residential car washing;

(15) Flows from riparian habitats and wetlands;

(16) Dechlorinated swimming pool discharges;

(17) Street wash water;

(18) Discharges or flows from fire fighting activities;

(19) Dye testing is an allowable discharge with written permission from the Town;

(20) Other discharges authorized by the Construction General Permit (CGP):

(21) Dewatering of work areas of collected stormwater and ground water (filtering or chemical treatment may be necessary prior to discharge);

(22) Waters used to wash vehicles (of dust and soil, not process materials such as oils, asphalt or concrete) where detergents are not used and detention and/or filtering is provided before the water leaves the site;

(23) Routine external building washing that does not use detergents or other chemicals;

(24) Uncontaminated groundwater or spring water; and

(25) Any other uncontaminated water source.

(E) 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.

(F) 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.

(G) Discharges from existing BMPs that have not been maintained and/or inspected in accordance with this chapter shall be regarded as illicit.

(Ord. 2012-18, passed 11-12-12)

§ 152.402 ACCIDENTAL DISCHARGES (SPILLS).

(A) 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 the release.

(B) In the event of a release of prohibited materials that are classified as hazardous, 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 Town Engineer, or his or her designee in person or by telephone, fax, or email, no later than the next business day.

(C) Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the Town's Engineering/Development Department designee within three business days of the telephone notice.

(D) If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of the establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. The records shall be retained for at least three years.

(Ord. 2012-18, passed 11-12-12)

§ 152.403 INSPECTIONS.

(A) The Town Engineer, or his or her designee, bearing proper credentials and identification, may enter and inspect all properties for regular periodic inspections, investigations, monitoring, observation, measurement, enforcement, sampling and testing, to effectuate the provisions of this section, and/or the NPDES Storm Water Permit. The Town Engineer, or his or her designee, shall duly notify the owner of the property or the representative on site, and the inspection shall be conducted at reasonable times.

(B) Upon refusal by any property owner to permit an inspector to enter or to continue an inspection, the inspector shall terminate the inspection or confine the inspection to areas wherein no objection is raised. The inspector shall immediately report the refusal and its grounds to the Town Engineer. The Town Engineer may seek appropriate compulsory process.

(C) In the event the Town Engineer, or his or her designee, reasonably believes that discharges into the Town MS4 may cause an imminent and substantial threat to human health or the environment, the inspection may take place at any time and without notice to the owner of the property or a representative on site.

(D) At any time during the conduct of an inspection or at such other times as the Town Engineer, or his or her designee, may request information from an owner or representative, the owner or representative may identify areas of the facility or establishment, material or processes that contain or may contain a trade secret.

(1) If the Town Engineer, or his or her designee, has no clear and convincing reason to question the identification, the inspection report shall note that trade secret information has been omitted.

(2) To the extent practicable, the Town Engineer, or his or her designee, shall protect all information that is designated as a trade secret by the owner or their representative.

(Ord. 2012-18, passed 11-12-12)

§ 152.404 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 Town.

(Ord. 2012-18, passed 11-12-12)

ADMINISTRATION AND ENFORCEMENT

§ 152.500 ENFORCEMENT.

The Town's Engineering/Development Department is vested with the authority to enforce the provisions of this chapter, and shall have the authority to pursue the course of action deemed to be the most likely course to achieve correction of the violations in a minimum of time and damage to the environment. The Town Engineer, or his or her designee, may issue verbal warning, written

notices of violation, and stop work orders in addition to the right to impose the civil penalties provided in this section. Generally the Town Engineer will pursue a course of progressive enforcement, but no provision of this chapter shall prevent the Town's Engineering/Development Department from implementing any stage of enforcement if it deems it to be necessary.

(Ord. 2012-18, passed 11-12-12)

§ 152.501 VERBAL WARNINGS.

Verbal warnings are used when it appears the condition can be corrected by the violator within a reasonable time and with minimal environmental impact. Verbal warnings shall specify the nature of the violation, required corrective action, and deadline for making corrections.

(Ord. 2012-18, passed 11-12-12)

§ 152.502 NOTICE OF VIOLATION.

Should the Town's Engineering/Development Department determine that any permittee or any other person discharging stormwater has violated or is violating this chapter or a permit or order issued hereunder, the Town Engineer, or his or her designee, may serve upon the person a written notice of the violation. Written notices must stipulate the nature of the violation and the required corrective action, with deadlines for taking such action. Submission of a plan for correction does not relieve the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(Ord. 2012-18, passed 11-12-12)

§ 152.503 STOP WORK ORDERS.

Stop work orders which require immediate cessation of construction activities, except for those activities directed at cleaning up, abating discharge, and installing appropriate control measures may be issued by the Town Engineer, or his or her designee, should he or she determine that the permittee or any other person discharging stormwater has failed to comply with the terms stated in a notice of violation, or when the Town Engineer, or his or her designee determines that continued construction activities pose a significant threat to water quality and/or the environment.

(Ord. 2012-18, passed 11-12-12)

§ 152.504 PERMIT SUSPENSION OR REVOCATION.

The Town Engineer, or his or her designee, 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 Town. A suspended, revoked or modified permit may be reinstated only 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 to the satisfaction of the Town Engineer, or his or her designee.

(Ord. 2012-18, passed 11-12-12)

§ 152.505 OTHER ENFORCEMENT CONSIDERATIONS.

(A) In addition to the civil penalty listed above, the Town may recover all damages proximately caused by the violator to the Town, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this chapter, or any other actual damages caused by the violation, including the costs of the Town's maintenance of stormwater facilities when the user of the facilities fails to maintain them as required by this chapter.

(B) Where the Town has used progressive enforcement to achieve compliance with this chapter, and in the judgment of the Town progressive enforcement has not been successful, the Town may refer the violation to TDEC.

(C) The Town may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at

law or equity, shall be no defense to any such actions.

(D) 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 or more of the remedies set forth herein has been sought or granted.

(E) The use of other escalated measures provided under Town ordinances, including the use of Town forces to perform work necessary to improve erosion control measures and collect reimbursement and administrative fees from the responsible person in an appropriate manner, such as collecting against the project's bond or directly billing the responsible party to pay for work and materials, is hereby authorized at the discretion of the Town Engineer, or his or her designee.

(Ord. 2012-18, passed 11-12-12)

§ 152.506 APPEALS.

(A) Any person who has been assessed a civil or administrative penalty or damage assessment by the Town Engineer, or his or her designee, has the right to appeal the assessment to the Board of Mayor and Aldermen (BMA) (or any other appeals board that may be established by the BMA.)

(B) Pursuant to Tenn. Code Ann. § 68-221-1106(d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this chapter may appeal the penalty or damage assessment to the Board of Mayor and Aldermen (BMA) (or other appeals board established by the BMA.)

(C) The appeal shall be in writing and filed with the Town Clerk within 15 calendar days after the civil penalty and/or damage assessment is legally served.

(D) Upon receipt of an appeal, the BMA, or other appeals board established by the BMA, shall hold a public hearing within 30 calendar days. Ten calendar days prior notice of the time, date, and location of the hearing shall be published in a daily newspaper of general circulation. Ten calendar days notice by registered mail shall also be provided to the aggrieved party, the notice to be sent to the address provided by the aggrieved party at the time of appeal. The decision of the BMA (or other appeals board established by the BMA shall be final).

(E) Any alleged violator may appeal a decision of the BMA (or other appeals board established by the BMA) pursuant to the provisions of Tenn. Code Ann., Title 27, chapter 8.

(Ord. 2012-18, passed 11-12-12)

§ 152.999 PENALTIES.

(A) Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the Town Engineer, or his or her designee, shall be guilty of a civil offense.

(B) Under the authority provided in Tenn. Code Ann. § 68-221-1106, the Town declares that any person violating the provisions of this chapter may be assessed a civil penalty by the Town Engineer, or his or her designee, of not less than $50 and not more than $5,000 per day for each day of violation. Each day of violation shall constitute a separate violation. In assessing a civil penalty, the Town Engineer, or his or her designee, may consider:

(1) The harm done to the public health or the environment;

(2) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(3) The economic benefit gained by the violator;

(4) The amount of effort put forth by the violator to remedy this violation;

(5) Any unusual or extraordinary enforcement costs incurred by the Town;

(6) The amount of penalty established by ordinance or resolution for specific categories of violations; and

(7) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(Ord. 2012-18, passed 11-12-12)