

TOWN OF MONTEAGLE

ORDINANCE NO. 12-24 -

**AN ORDINANCE BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF
MONTEAGLE, TENNESSEE, TO ESTABLISH RULES AND REGULATIONS FOR
STORMWATER DISCHARGES AND TO ESTABLISH CIVIL PENALTIES FOR THE
VIOLATION OF THE RULES AND REGULATIONS PURSUANT TO THE AUTHORITY TENN.
CODE ANN. § 68-221-1101 ET. SEQ.**

CHAPTER 01

STORMWATER MANAGEMENT

SECTION

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01-101 General Provisions

- 1. Purpose. It is the purpose of this chapter to:
 - a. Protect, maintain, and enhance the environment of the City and the public health, safety and the general welfare of the citizens of the City, by controlling discharges of pollutants to the City's stormwater system and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the City;
 - b. Enable the City to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR § 122 as applicable for stormwater discharges;

- c. Allow the City to exercise the powers granted in Tennessee Code Annotated § 68-221-1105, which provides that, among other powers cities have with respect to stormwater facilities, is 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. The City shall administer the provisions of this chapter.
3. Stormwater management ordinance. The intended purpose of this ordinance is to safeguard property and public welfare by regulating stormwater drainage and requiring temporary and permanent provisions for its control.

01-102. 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. **Active Channel** – The area of the stream channel that is subject to frequent flows (approximately once per one and a half years) and that includes the portion of the channel below where the floodplain flattens.
2. **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.
3. **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).

4. **Appeal** – A request for a review of the City’s interpretation of any provision of these regulations.
5. **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.
6. **As-built plans (record drawings)** mean drawings depicting conditions as they were actually constructed.
7. **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.
 - Structural BMPs are facilities that help prevent pollutants in stormwater runoff from leaving the site.
 - Non-structural BMPs are techniques, activities and processes that reduce pollutants at the source.
8. **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.
9. **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.
10. **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.
11. **Channel** means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water. Channel flow is that water which is flowing within the limits of the defined Channel.
12. **City.**The Town of Monteagle
13. **City’s Engineer.** The person employed or designated by the City with approval of the Board of Mayor and Alderman to perform duties assigned to the Engineer under this chapter. The Engineer shall be properly licensed in the State of Tennessee.

14. **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.).
15. **Commencement of construction:** the initial disturbance of soils associated with clearing, grading, excavating or other construction activities.
16. **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.
17. **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.
18. **Critical Area.** A site subject to Erosion or Sedimentation as a result of Cutting, Filling, Grading, or other disturbance of the Soil; a Site difficult to stabilize due to exposed subsoil, steep slope, extent of exposure, or other conditions.
19. **Culvert.** A man-made conveyance of stormwater which may include a pipe or other constructed conveyance.
20. **Cut.** A Portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to the excavated surface.
21. **CWA** means the Clean Water Act of 1977 or the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq.)
22. **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 year designation is the mean return interval of the rainstorm. For example, a 25-year rainstorm may occur once every 25 years or may occur on two consecutive days every 50 years. The estimated 24-hour 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.
23. **Detention.** The temporary delay of storm runoff prior to discharge into receiving waters.
24. **Development.** Any man-made change to improved or unimproved real estate, included but not limited to, Buildings or other Structures, mining, dredging, filling, grading, paving, excavating,

drilling operations, or permanent storage of materials (defined as materials of like nature stored in whole or in part for more than six months).

25. **Discharge or discharge of a pollutant** refers to the addition of pollutants to waters from a source.
26. **Drainage Basin.** A part of the surface of the earth that is occupied by, and provides surface water runoff into, a stormwater management system which consists of a surface stream or a body of impounded surface water together with all tributary surface streams and bodies of impounded surface water.
27. An **ecoregion** is a relatively homogeneous area defined by similarity of climate, landform, soil, potential natural vegetation, hydrology, or other ecologically relevant variables. Ecoregions can be determined for specific stream segments by using Tennessee's Online Water Quality Assessment Data viewer <http://tdeconline.tn.gov/dwr>.
28. **Enforcement Officer** (City Enforcement Officer). The person designated by the City as the person responsible for enforcing zoning and building regulations within the City. This individual may also serve as the Building Inspector.
29. **Erosion.** The disintegration or wearing away of Soil by the action of water in the form of flowing water or precipitation impact.
30. **Erosion Prevention.** Practices implemented to prevent, through shielding, binding, or other mechanisms, the suspension of Soil particles, often associated with Erosion Prevention and Sedimentation Control.
31. **Excavation.** See Cut.
32. **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.
33. **Fill.** Portion of land surface area to which Soil, rock, or other materials have been or will be added; height above original ground surface after the material has been or will be added.
34. **Floodplain.** The relatively flat or lowland area adjoining a river, stream, watercourse, lake, or other body of standing water which has been or may be covered temporarily by floodwater. For purposes of this chapter, the Floodplain is defined as the area that would be inundated by high water at the flood profile from which the Flood Protection Elevation is established.
35. **Flood Protection Elevation.** The elevation which is one foot above the 100-year flood high water profiles according to the most current FEMA map developed for the Federal Flood Insurance Study for the City. The Flood Protection Elevation is the crest elevation in relation to mean-sea-level (National Geodetic Vertical Datum – NGVD) expected to be reached during a Flood which encompasses the regulatory 100-year Floodplain.
36. **Floodproofing.** A combination of structural provisions, change, or adjustments to properties and Structures subject to Flooding primarily for the reduction or elimination of Flood damages to properties, water an sanitary facilities, Structures, and contents of Buildings in a Flood hazard area.

37. **Grading.** Any operation or occurrence by which the existing Site elevations are changed; or where any ground cover, natural or man-made, is removed; or any Watercourse or body of water, either natural or man-made, is relocated on any Site, thereby creating an unprotected area. This includes Stripping, Cutting, Filling, stockpiling, or any combination thereof, and shall apply to the land in its Cut or Filled condition.
38. **Hot spot** means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.
39. **Hydrologic and Hydraulic Study.** Engineering study to determine rates, volumes, and distribution of storm runoff.
40. **Impervious Surface.** A term applied to any ground or structural surface that water cannot penetrate or through which water penetrates with great difficulty.
41. **Improved sinkhole** is a natural surface depression that has been altered in order to direct fluids into the hole opening. Improved sinkhole is a type of injection well regulated under the Underground Injection Control (UIC) program of the Tennessee Department of Environment and Conservation. Underground injection constitutes an intentional disposal of waste waters in natural depressions, open fractures and crevices, such as those commonly associated with weathering of limestone. More information regarding an Underground Injection Control Permit can be found on TDEC's DWR webpage at <https://www.tn.gov/content/tn/environment/permit-permits/water-permits/1/underground-injection-control-permit.html>
42. **Invert Elevation:** The lowest elevation of the inside bottom of a pipe, trench, or culvert at which water can flow.
43. **Land Disturbance Activity.** Any operation or occurrence by which the existing Site elevations are changed; or where any ground cover, natural or man-made, is removed; or any Watercourse or body of water, either natural or man-made, is relocated on any Site, thereby creating an unprotected area. This includes Stripping, Cutting, Filling, stockpiling, or any combination there, and shall apply to the land in its Cut or Filled condition. The phrase Land Disturbing Activity has the same meaning as Land Disturbance Activity.
44. **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>).
45. **Level 2** - Design Principles for Erosion Prevention and Sediment Control for Construction Sites training and certification program administered by University of Tennessee Water Resources Research Center (<https://tnepsc.org/index.asp>).
46. **Linear Project** is a land disturbing activity as conducted by an underground/overhead utility or highway department, including, but not limited to, any cable line or wire for the transmission of electrical energy; any conveyance pipeline for transportation of gaseous or liquid substance; any cable line or wire for communications; or any other energy resource transmission ROW or utility infrastructure, e.g., roads and highways. Activities include the construction and installation of these utilities within a corridor. Linear project activities also include the construction of access roads, staging areas and borrow/spoil sites associated with the linear project. Land disturbance specific to the development of residential and commercial subdivisions or high-rise structures is not considered a linear project.

47. **Managed Vegetation.** Refers to management that does not involve grubbing, clearing, tilling, disking or plowing of the ground. Cutting, mowing, pruning, no-till planting, and aeration are allowed activities of Managed Vegetation.
48. **Monitoring** refers to tracking or measuring activities, progress, results, etc., and can refer to non-analytical monitoring for pollutants by means other than 40 C.F.R. § 136 (and other than state- or federally established protocols in the case of biological monitoring and assessments), such as visually or by qualitative tools that provide comparative values or rough estimates.
49. **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.
50. **Permanent Stabilization** means that all soil disturbing activities at the site have been completed and one of the three following criteria is met:
- A perennial, preferably native, vegetative cover with a uniform (i.e., evenly distributed, without large bare areas) density of at least 70 percent has been established on all unpaved areas and areas not covered by permanent structures, and all slopes and channels have been permanently stabilized against erosion.
 - Equivalent permanent stabilization measures such as the use of riprap; permanent geotextiles; hardened surface materials including concrete, asphalt, gabion baskets or Reno mattresses have been employed.
 - For construction projects on land used for agricultural or silvicultural purposes, permanent stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural or silvicultural use.
51. **Permittee.** Any person, firm, or any other legal entity to whom a site disturbance, Land Disturbance, building or other related permit is issued in accordance with City regulations.
52. **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.
53. **Pollutant** means sewage, industrial wastes, or other wastes.
54. **Post-construction runoff quality controls.** Permanent controls for capturing pollutants in stormwater runoff and for controlling the rate, quantity and volume of discharge as described and defined in the City’s stormwater regulations.
55. **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.

56. A **rainfall event** is defined as any occurrence of rain preceded by 10 hours without precipitation that results in an accumulation of 0.01 inches or more. Instances of rainfall occurring within 10 hours of each other will be considered a single rainfall event.
57. **Redevelopment.** Any man-made change to improved real estate, including but not limited to, adding buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials (defined as materials of like nature stored in whole or in part for more than six months.) Note: Changing the interior of an existing building or other structure without any external change is not considered redevelopment under this chapter. Demolition and reconstruction is considered development and not redevelopment.
58. **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 Section 62-202, Tennessee Code Annotated, to practice in Tennessee.
59. **Retention.** The prevention of storm runoff from direct discharge into receiving water. Examples include systems which discharge through percolation, exfiltration, filtered bleed-down and evaporation process.
60. **Right-of-Entry.** Authority of the City or their designee to enter into properties for the purpose of inspecting private drainage system.
61. **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.
62. **Sediment** means solid material, both inorganic (mineral) and organic, that is in suspension, is being transported; or has been moved from the site of origin by wind, water, gravity or ice as a product of erosion.
63. **Sediment basin** A temporary basin consisting of an embankment constructed across a wet weather conveyance, an excavation that creates a basin or by a combination of both. A sediment basin typically consists of a forebay cell, impoundment, permanent pool, primary spillway, secondary or emergency spillway and surface dewatering device. The size and shape of the basin depends on the location, size of drainage area, incoming runoff volume and peak flow, soil type and particle size, land cover, and receiving stream classification (i.e., waters with unavailable parameters, Exceptional TN Waters, or waters with available parameters).
64. **Sedimentation** means the action or process of forming or depositing sediment.
65. **Sheeting.** Water moving fairly uniformly over a ground surface with a similar depth.
66. **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.
67. **Silviculture.** The cultivation or growing of trees.
68. **Site.** All contiguous land and bodies of water in one ownership, graded or proposed for Land Disturbance or Development as a unit, although not necessarily at one time.

69. **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.
70. **Steep Slope or Steep Grade** means a natural or created slope of 35% grade or greater.
71. **Stormwater** means rainfall runoff, snow melt runoff, and surface runoff and drainage.
72. **Stormwater Concept Plan.** A plan which is defined as showing sufficient information as pertaining to major stormwater elements to allow the City to evaluate the general characteristics and overall stormwater management efforts expected within a proposed Development.
73. **Stormwater control measure or SCM** means permanent practices and measures designed to reduce the discharge of pollutants from new development projects or redevelopment projects.
74. **Stream** as defined by TCA 69-3-103(38) "stream" means a surface water that is not a wet weather conveyance. In the absence of a definitive assessment by the State of Tennessee of whether a watercourse is a stream or a Wet-weather conveyance, the following Watercourses are considered to be streams:
- i) Watercourses serving drainage areas of 100 acres or more, provided that the watercourse existed prior to the Development under consideration for application;
 - ii) Watercourses known to flow regularly after seven days of dry weather (ex, spring-fed surface water);
 - iii) Watercourses identified as a dashed blue line on the USGS map; and
 - iv) Watercourses identified as a continuous blue line on the USGS map.

The City may conclude, subject to review by the State, that a Watercourse or segment of Watercourse is not a Stream, based on a review of file data assessing its geomorphology, hydrology, and biology.

75. **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.
76. **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).
77. **Stormwater Management Plan.** The purpose of the Stormwater Management Plan is to define and provide the City and developers of commercial properties within the City limits requirements and provisions for meeting requirements of the Montecagle Zoning Ordinance, Section 206 Soil

Erosion & Stormwater Management. The Stormwater Management Plan shall include sufficient information to allow the City to evaluate the environmental characteristics of the project Site, the potential impacts of all proposed Development of the Site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project Site. The Stormwater Management Plan shall be submitted for review and approval as part of the site plan and/or construction plans.

78. **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).
79. **Stripping.** Any activity that removes or significantly disturbs the vegetative surface cover, including clearing and grubbing operations.
80. **Take of an endangered species** means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or attempt to engage in any such conduct.
81. **Tennessee Erosion and Sediment Control (TDESC) 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.
82. **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.
83. **Top of Bank.** The landward edge of the active channel.
84. **Treatment chemicals** are polymers, flocculants or other chemicals used to reduce turbidity in stormwater discharges by chemically bonding to suspended silts and other soil materials and causing them to bind together and settle out. Common examples of anionic treatment chemicals are **polyacrylamide-chitosan (PAM-CS)**.
85. **Total Suspended Solids or TSS.** The quantity of suspended solid materials in a sample of water as defined by: "Standard Method," Method 2540 D, "Total Suspended Solids Dried at 103 to 105 degrees," American Public Health Association, American Water Works Association, and Water Pollution Control Federation, 1997 or most current EPA-approved method.
86. **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.
87. **USGS Map.** Refers to the most recent 7.5-minute series (topographic) map for the location under consideration.
88. **Waste site** is an area where material from a construction site is disposed of. When the material is erodible, such as soil, the site must be treated as a construction site.

89. **Watercourse.** A Channel, natural depression, slough, gulch, stream, creek, pond, reservoir, or lake in which storm runoff and flood water flows either regularly or infrequently. This includes major drainage ways for carrying urban storm runoff.
90. **Water Quality Protection Area.** Undisturbed vegetation, including trees, shrubs, and herbaceous vegetation; enhanced or restored vegetation; or the re-establishment of vegetation boarding Streams, ponds, wetlands, reservoirs or lakes, which exists or is established to protect those waterbodies.
91. **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.
92. **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>.
93. **Water quality riparian buffer** means 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 the 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.
94. A **one-week period** is a synonym of a calendar-week; typically, a period from Sunday through Saturday
95. **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.
96. **Wetland.** Those areas that are inundated or saturated by surface or ground water at a frequency or duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typical to life in saturated Soil conditions. Wetlands generally include, but are not limited to, swamps, marshes, bogs and similar areas.
97. **Wet weather conveyances** are man-made or natural watercourses, including natural watercourses that have been modified by channelization, that meet the following:

- The conveyance carries flow only in direct response to precipitation runoff in its immediate locality.
- The conveyance's channels are at all times above the groundwater table.
- The flow carried by the conveyance is not suitable for drinking water supplies.
- 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)).

1-103. Construction Stormwater Management

1. Stormwater Construction Minimum Control Requirements.

- a. The City adopts, as its Best Management Practices (BMP) manuals for stormwater management, construction and permanent, the following publications, which are incorporated by reference in this ordinance as if fully set out herein:
 1. TDEC Erosion Prevention and Sediment Control Handbook, most current edition. The erosion and sediment control manual may be updated and expanded from time to time, at the recommendation of the Planning & Zoning Department, based on improvements in engineering, science, monitory and local maintenance experience.
 2. Tennessee Permanent Stormwater Management and Design Guidance Manual, most current edition.
- b. The City adopts, for use in designing Stormwater Control Measures, construction design storm events as follows.
 - i. Pre and Post development calculations shall be shown for the 2-year through 100-year storm events (2, 5, 10, 25, 50, and 100).

2. General Performance Criteria for Stormwater Management. Unless granted a waiver or determined by the City to be exempt, the following minimum performance criteria shall be addressed for stormwater management at all Sites:

- a. All Site designs shall control the peak flow rates of stormwater discharge to reduce the generation of post construction stormwater runoff to pre-construction levels as specified. These practices should seek to utilize pervious soil areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped area to maximum extent practical to provide treatment for both water quality and quantity.
- b. Protect stream channels from degradation, specific channel protection criteria shall be provided as specified.
- c. Stormwater discharges to Critical Areas with sensitive resources (ex. water supply reservoirs) may be subject to additional performance criteria or may need to utilize or restrict certain stormwater management practices.
- d. Stormwater discharges from Hot Spots may require the application of specific structural BMP's and pollution prevention practices.

- e. Prior to or during development of the Stormwater Management Plan, applicants for Land Disturbance Permits should consult with the City to determine if they are subject to additional stormwater design requirements.
 - f. Calculations for determining peak flows as found in a stormwater design manual shall be used for sizing all stormwater facilities.
 - g. Best Management Practices requirements as defined in BMP manual as approved and adopted by the City.
3. General Design Performance Criteria for Permanent Stormwater Management. The following performance criteria shall be addressed for permanent stormwater management at all development sites:
- a. Site design standards for all new and redevelopment require, in combination or alone, management measures that are designed, built and maintained to treat, at a minimum, treat the first inch of every rainfall event preceded by 72 hours of no measurable precipitation prior to discharge with a technology documented to remove 80% total suspended solids (TSS). The treatment technology must be designed, installed and maintained to continue to meet this performance standard.
 - b. To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the approved BMP manuals.
 - c. Stormwater discharges to Critical Areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria or may need to utilize or restrict certain stormwater management practices.
 - d. Stormwater discharges from hot spots may require the application of specific structural BMP's and pollution prevention practices. In addition, stormwater from a hot spot land use may not be infiltrated.
 - e. Prior to or during the site design process, applicants for land disturbance permits shall consult with the Director of Planning & Zoning to determine if they are subject to additional stormwater design requirements.
4. Minimum volume control. In accordance with 01-103(7)(b) the City may establish standards to regulate the quantity of stormwater discharged, therefore;
- a. Stormwater designs shall meet the storm frequency storage requirements as identified in Section 01-103(7)(b).
 - b. If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the Director of Planning and Zoning may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.
5. Stormwater Concept Plan. The Stormwater Concept Plan shall contain major stormwater elements with sufficient information to allow the City to evaluate the general characteristics and overall stormwater management efforts expected with the land disturbance of the project Site. To accomplish this goal, the concept plan shall include the following:
- a. GIS/Mapping contours (2-foot maximum);
 - b. Storm drainage flow arrows;
 - c. Potential locations of major stormwater Structures;
 - d. Potential locations of Detention/Retention areas;

- e. Potential locations of natural/enhanced holding areas (including known sinkholes and Wetlands);
- f. Locations of major Erosion/Sediment Control basins, etc;
- g. Ultimate drainage outfall;
- h. Locations of all streams, with a designation of those which are FEMA regulated and designated floodways; and
- i. Potential locations of water quality protection areas.

The Stormwater Concept Plan information shall be submitted with the master plan for the development. The information may be contained in the master plan or submitted separately.

6. Stormwater Management Plan. The Stormwater Management Plan shall include sufficient information to allow the City to evaluate the environmental characteristics of the project Site, the potential impacts of all proposed Development of the Site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project Site. The Stormwater Management Plan shall be submitted for review and approval as part of the site plan and/or construction plans. To accomplish this goal, the Stormwater Management Plan shall include the following:
 - a. Topographic Base Map. A topographic base map of an appropriate scale of the Site which extends a minimum of one hundred 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 nearest upstream and downstream drainage Structures.
 - ii. Current land use including all existing Structures, location of utilities, roads, and easements;
 - iii. All other existing significant natural and artificial features;
 - iv. Proposed surface area tabulation showing the percentage of the different surfacing types (i.e. lawn, asphalt, concrete, etc.); drainage patterns, locations of utilities, roads, and easements; the limits of clearing and Land Disturbance Activity; and,
 - v. Proposed structural BMP's identified on drawings by numerical or other designation;
 - 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 required design storms. 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 BMP manual and shall show that the release rate for post-Development shall be equal to or less than the pre-Development rate. Such calculations shall include:
 - i. A description of the required design storm frequency, duration, and intensity;
 - ii. Time of Concentration;
 - iii. Soil curve numbers or run-off coefficients including assumed Soil moisture conditions;
 - iv. Peak runoff rates and total runoff volumes for each watershed area; these rates shall be based upon built-out conditions;
 - v. Infiltration rates, where applicable;
 - vi. Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;

- vii. Flow velocities;
 - viii. Data on the increase rate and volume of runoff for the design storms;
 - ix. Documentation of the sources for all computation methods and field test results; and,
 - x. For BMP's or stormwater facilities not described by the BMP manual, include design parameters and specifications.
- 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. The plan may, at City's option, require the owner to file periodic inspection reports or certifications that the required maintenance and repairs have been performed and that the facility is functioning as initially designed and installed. A location map of all stormwater management BMP's with a permanent elevation benchmark shall be submitted to assist in the periodic inspection of the facility.
- e. Stormwater Pollution Prevention Plan. The applicant must include a Stormwater Pollution Prevention Plan (SWPPP) for all construction activities as outlined below. 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. 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. The plan shall be certified by a registered professional Engineer licensed in the State of Tennessee. The plan shall also conform to the requirements found in the approved BMP manuals, and shall include at least the following:
- i. Project description - Briefly describe the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required.
 - ii. A topographic map with contour intervals of two (2) feet or less showing present conditions and proposed contours resulting from land disturbing activity.
 - iii. All existing drainage ways, including intermittent and wet weather. Include any designated floodways or flood plains.
 - iv. A general description of existing land cover. Individual trees and shrubs do not need to be identified.
 - v. 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.

- vi. Approximate limits of proposed clearing, grading, and filling.
- vii. Approximate flows of existing stormwater leaving any portion of the site.
- viii. A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.
- ix. Location, size and layout of proposed stormwater and sedimentation control improvements.
- x. Existing and proposed drainage network.
- xi. Proposed drain tile or waterway sizes.
- xii. Approximate flows leaving site after construction and incorporating water run-off mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The plan must address the adequacy of outfalls from the development: when water is concentrated, what is the capacity of waterways, if any, accepting stormwater off-site; and what measures, including infiltration, sheeting into buffers, etc., are going to be used to prevent the scouring of waterways and drainage areas off-site, etc.
- xiii. 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/detention facilities or any other structural BMP's.
- xiv. 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.
- xv. Specific details for: the construction of stabilized construction entrance/exits, concrete washouts, and sediment 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 City. Soil, sediment, and debris brought onto streets and public ways must be removed by the end of the work day to the satisfaction of the City. Failure to remove the sediment, soil or debris shall be deemed a violation of this ordinance.
- xvi. Proposed structures: location and identification of any proposed additional buildings, structures or development on the site.
- xvii. A description of on-site measures to be taken to recharge surface water into the ground water system through runoff reduction practices.
- xviii. Specific details for construction waste management. Construction site operators shall control waste such as discarded building materials, concrete truck washout, petroleum products and petroleum related products, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water

quality. When the material is erodible, such as soil, the site must be treated as a construction site.

7. Land development permit. The Land Development Permit shall be obtained for any 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), when required. Every person will be required to obtain a land disturbance permit from the City in the following cases, one (1) acre or more;
 - a. New development that involves land development activities of one (1) acre or more;
 - b. Redevelopment that involves other land development activity of one (1) acre or more;
 - c. 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 Waters 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; or
 - iv. the minimum applicability criteria set forth in item (a) above if such activities are part of a larger Common Plan of Development, (see "Common Plan of Development" definition).
 - v. 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.
 - vi. as determined by the City 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.
 - d. If unpermitted construction activity commences or is on-going, the City will issue and enforce 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. *Note: Any discharge of stormwater or other fluid to an improved sinkhole or other injection well, as defined, must be authorized by permit or rule as a Class V underground injection well under the provisions of Tennessee Department of Environment and Conservation (TDEC) Rules, Chapter 0400-45-06)*
8. Land disturbance/Grading/Stormwater Construction Permit. Persons seeking the issuance of any Land Disturbance Permit must provide to the City proof of coverage under the Tennessee Construction General Permit (CGP) (if applicable) when requested by the City; and must provide 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 documents.
 - 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.
 - d. Land disturbance activities in a City Floodway or specified Zoning District require a permit and shall provide evidence of obtaining appropriate licenses/permits that may be required by federal or state laws and regulations or written waiver from such permits and licenses prior to the issuance of a Land Disturbance Permit by the City.
9. Building Permit. No building permit shall be issued until the applicant has first obtained a Land Disturbance Permit where required by this ordinance.

01-104. Permanent Stormwater Management: Operation, Maintenance, & Inspection.

1. As-built plans (record drawings) – All applicants are required to submit actual as-built plans certified by the design engineer for any structures located on-site within 90 days 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 licensed to practice in Tennessee. A certification by the design engineer certifying that SCM's will function within original design parameters as constructed shall be included. A final inspection by the City is required before any performance security or performance bond will be released. The City 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 BMP's/SCM's have been made and accepted by the City. No bonds or securities shall be released until the City 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. 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. For steep slopes of 35% or more, stabilization measures shall be initiated within 7 days along construction buffer zones. Construction buffer zones shall be those water quality buffers and buffer zones as defined in 14-502 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 within the 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 zone 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.

- c. 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.
 - d. Permanent stabilization with perennial vegetation (using native herbaceous and woody plants where practicable) or other permanently stable, non-eroding surface shall replace any temporary measures as soon as practicable. Unpacked gravel containing fines (silt and clay sized particles) or crusher runs will not be considered a non-eroding surface.
 - e. The following criteria shall apply to revegetation efforts:
 - 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.
 - iv. 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.
3. Inspection of stormwater management facilities. Periodic inspections of facilities shall be performed, documented, and reported.
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.

The designer/operator must comply with the vegetation requirements and the permissible land uses set forth for buffers.

- i. 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.
 - ii. Where site assessments are required by the CGP, the operator shall provide a copy of the assessment to the City.
 - iii. 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.
 - iv. Notice of Termination (NOT) – The operator shall provide the City with a copy of the NOT when it is issued by TDEC.
 - v. 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.
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 as outlined, the City, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the City shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have thirty (30) 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.

01-105. Riparian Buffer Requirements.

1. A Riparian Buffer shall be applied to all water resources located in, or adjacent to, new construction, development, or redevelopment that require a Land Disturbance Permit. 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. The criteria for the width of the post construction/permanent 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." Stormwater discharges should enter the post construction/permanent water quality riparian buffer as sheet flow, not as concentrated flow, where site conditions allow.

2. A determination that water quality buffer widths cannot be met on-site may not be based solely on the difficulty or cost of implementing measures, but must include multiple criteria, such as: type of project, existing land use and physical conditions that preclude use of these practices. Every attempt should be made for development and redevelopment activities not to take place within the buffer zone.
3. "Construction" applies to all streams adjacent to construction sites, with an exception for streams designated as unavailable parameters 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). Buffer zones are not primary sediment control measures and should not be relied on as such. 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 both new construction sites and redevelopment. The riparian buffer zone should be preserved between the top of stream bank and the disturbed construction area.
4. Buffer zone requirements for discharges into unavailable parameters or exceptional waters: A 60-foot natural riparian buffer zone adjacent to the receiving stream designated as unavailable parameters or exceptional 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 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). 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 both new construction sites and redevelopment. The riparian buffer zone should be established between the top of stream bank and the disturbed construction area. The 60-foot 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.
5. The following list includes the allowable uses within the buffer zone. The Director of Planning & Zoning shall approve the specific requirements of a plan proposing the installation of any feature or construction within the buffer zone. For any such work, a buffer management plan shall be submitted to the Director of Planning & Zoning prior to the issuance of a land disturbance permit.
 - a. Utility crossings.
 - b. Passive recreation, pervious footpaths, and boardwalks to approach the water resource as approved by the Director of Planning & Zoning.
 - c. Biking or hiking paths and greenways, but no closer than 30 feet at any measured location. View corridors shall be allowed along greenways as approved by the Director of Planning & Zoning. Paths and greenways shall be designed to prevent the channelization of

- stormwater runoff, and should be constructed of pervious and/or permeable materials. There shall be no other permanent structures with the exception of paths.
- d. Stormwater channels as approved by the Director of Planning & Zoning.
 - e. Stabilization practices to prevent channelization and erosion in the buffer zone from stormwater runoff adjacent to the water resource.
 - f. Landscaping to allow for climax successional vegetation through the removal of invasive exotic plants and the establishment of native vegetation, and/or other practices that restore the ecological integrity of the riparian buffer.
 - g. Removal of individual trees within the buffer zone which are in danger of falling, causing damage to dwellings or other structures, or causing blockage of the water resource.
 - h. Cut and fill for floodplain compensations as approved by the Director of Planning & Zoning.
6. Requests to reduce the riparian buffer width, perform clearing activities or install crossings within the riparian buffer shall be approved by the Director of Planning & Zoning.
- a. The riparian buffer width may be reduced in conjunction with targeted restoration plans that make comparable improvements to both the ecological integrity within the buffer zone and water quality of the water resource. Reduction of the riparian buffer width shall be approved on a case-by-case basis. Restoration plans must be submitted along with a buffer management plan to the Director of Planning & Zoning for approval.
 - b. Riparian buffer crossings should be limited as much as possible. Utilities shall be located under pavement where possible to limit the width of the crossing. Riparian buffer crossings shall be submitted along with a buffer management plan to the Director of Planning & Zoning for approval.
 - i. Utilities may be allowed in the riparian buffer, but not closer than 30 feet to the top of bank except for crossings.
 - ii. The Director of Planning & Zoning may approve new driveways or road crossings through or across riparian buffer zones (pending required state or federal approval) on a case-by-case basis. It shall be demonstrated that the access across the buffer is necessary and that the buffer will not be impacted excessively. In these cases, the driveway or road crossing shall be constructed perpendicular, or as close to perpendicular as possible to the water resource and/or riparian buffer with careful detail to protecting trees and vegetation and minimizing site grades. Other federal, state and/or local permits may still be required.
7. For any proposed development and/or construction activity within or adjacent to a riparian buffer, the following shall be required.
- a. The parameters of the riparian buffer shall be delineated by the applicant and boundaries shall be clearly indicated and labeled on all plats, plans, permits and official maps.
 - b. Include a note on plans to reference protective covenants governing all riparian buffer areas, labeled as: "Any Riparian Buffer is subject to protective covenants recorded in the Register of Deeds. Disturbance and use of these areas is restricted; severe penalties apply."
 - c. Riparian buffers shall be protected during construction activities by a combination of fencing and flagging to prevent entry of construction equipment, storage and stockpiling. Buffer boundaries shall be marked with signs that persist before, during and after construction activities.
 - d. Permanent boundary markers shall be installed prior to the completion of the development activities. Signage shall be posted at the edge of the riparian buffer on each lot line, and at a maximum spacing of 200 feet. Properties with a large amount of riparian buffer frontage

- may request a reduction in spacing requirements, subject to approval by the Director of Planning & Zoning. The size of the sign shall be six inches by four inches or greater and shall contain the message, "Water Resource protected. Violators subject to severe penalties" or other language as approved by the Director of Planning & Zoning.
- e. All riparian buffers shall be placed in open space lots to be maintained as outlined.
8. Riparian buffers shall be actively managed with periodic buffer surveys. Violators shall be served with civil penalties as outlined and shall be required, at their own expense, to revegetate, according to an approved buffer management plan, and maintain the section of the riparian buffer encroached upon, using only native vegetation. Equivalent native plants and trees that were removed shall be replaced on a tree per tree basis or as approved by the Director of Planning & Zoning.

01-106. Permanent SCM's: New Development, Existing Locations, and Ongoing Developments.

1. On-site stormwater management facilities inspection and maintenance agreement
 - a. Where the stormwater facility is located on property that is subject to a development agreement, and the development agreement provides for a permanent stormwater maintenance agreement that runs with the land, the owners of property 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 outlined 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 the City Enforcement Officer 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.
 - c. Provide that the minimum maintenance and repair needs include but are not limited to: the removal of silt, litter and other debris, the cutting of grass, 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. Maintenance and repair shall be conducted at the expense of the owners.
 - d. Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the City.
 - e. 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.
2. Existing problem locations – no maintenance agreement

- a. The City shall in writing notify 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 not exceeding 60 days 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 associated stormwater violations; and joint inspections with Tennessee or federal 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.
 - viii. Specific maintenance items or violations that have been corrected and the date of completion.
- 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 ongoing developments. The following requirements shall apply to all locations and developments at which land disturbing activities have occurred prior 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 City.
 - b. Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.
 - c. Drainage ways shall be appropriately stabilized.
 - d. Trash, junk, rubbish, construction materials, oils, 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 its pollution. 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 systems
 - 1. 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 City under this section are subject to appeal as outlined.

01-107. Illicit Discharges.

This section shall apply to all water generated on developed or undeveloped land entering the City's separate storm sewer system.

1. Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the City's streets, swales, or storm sewer system 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 as outlined. 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 City's streets, swales, or storm sewer system City's streets, swales, or storm sewer system is prohibited except as described as follows:

- a. Water line flushing
 - b. Landscape irrigation
 - c. Diverted stream flows
 - d. Rising ground waters
 - e. Uncontaminated ground water infiltration (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.)
 - f. Uncontaminated pumped ground water
 - g. Discharges from potable water sources
 - h. Air conditioning condensation
 - i. Irrigation water
 - j. Springs
 - k. Water from crawl space pumps
 - l. Footing (foundation) drains
 - m. Lawn watering
 - n. Individual residential car washing
 - o. Flows from riparian habitats and wetlands
 - p. Dechlorinated swimming pool discharges
 - q. Street wash water with no soaps or solvents
 - r. Discharges or flows from firefighting activities
 - s. Any other uncontaminated water source
2. Prohibition of illicit connections. The construction, use, maintenance or continued existence of illicit connections to the City's streets, swales, or 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. This prohibition expressly includes SCM's connected to the system not properly inspected and maintained in accordance with this ordinance.
 - a. Any owner or other person responsible for a property or premises, which is, or may be, the source of an illicit discharge, shall at the City's discretion be required to implement, at the owner or other person's expense, the BMP's necessary to prevent the further discharge of pollutants to the City's streets, swales, or 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.
3. 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 City's streets, swales, or 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 and the City of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the City in person or by telephone or email, no later than the next business day. Notifications in person or by telephone shall be confirmed by written

notice addressed and delivered to the City within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

4. No illegal dumping allowed. 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 and is subject to civil penalties by the City, State of Tennessee, and federal agencies

01-108. Enforcement.

1. Enforcement authority. The City's Enforcement Officer and/or the City shall have the authority to issue notices of violation and citations, and to impose 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 mandated by the City's Enforcement Officer or the City. The City's enforcement authority includes:
 - 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's Enforcement Officer and/or 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 can be used to abate the violation.
 - f. Additional Measures – The City's Enforcement Officer and/or the City may also use other escalated measures provided under local legal authorities. The City's Enforcement Officer and/or the City may order or perform work necessary to improve erosion control measures and collect the funds from the owner or other 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 warning may be given at the discretion of the City Enforcement Officer 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 City's Enforcement Officer and/or the City finds that any permittee or any other person discharging stormwater has violated or is violating this ordinance or a permit or order issued hereunder, the City may serve upon such person written notice of the violation. Within ten (10) days of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include

- specific required actions, shall be submitted to the City's Enforcement Officer. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.
- c. Consent orders. The City's Enforcement Officer and/or the City is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to paragraphs (d) and (e) below.
 - d. Show cause hearing. The City's Enforcement Officer and/or the City may order any person who violates this ordinance or permit, or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.
 - e. Compliance order. When the City's Enforcement Officer and/or the City finds that any person has violated or continues to violate this chapter or a permit or order issued herein, he may issue an order to the violator directing that, following a specific time period, adequate structures or devices be installed and/or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.
 - f. Cease and desist and stop work orders. When the City's Enforcement Officer and/or the City finds that any person has violated or continues to violate this chapter or any permit or order issued herein, the City may issue a stop work order or an order to cease and desist all such violations and direct those persons in noncompliance to:
 - i. Comply forthwith; or
 - ii. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation; including halting operations except for terminating the discharge and installing appropriate control measures.
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 chapter and in the BMP manual(s) adopted by the City under this ordinance, the strictest standard shall prevail.

01-109. Penalties.

1. Violations. Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter,

or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the City's Enforcement Officer and/or the City, shall be guilty of a civil offense.

2. Penalties. Under the authority provided in Tennessee Code Annotated § 68-221-1106, the City declares that any person violating the provisions of this chapter may be assessed a civil penalty by the City of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.
3. Measuring civil penalties. In assessing a civil penalty, the City 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; The amount of penalty established by ordinance or resolution for specific categories of violations; and
 - f. Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.
4. Recovery of damages and costs. In addition to the civil penalty in subsection (2) above, the City may recover:
 - a. All damages proximately caused by the violator to the City, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this chapter, or any other actual damages caused by the violation.
 - b. The costs of the City's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this chapter.
5. 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.

01-110. 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 chapter 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 municipal recorder or clerk within fifteen (15) days after the civil penalty and/or damage assessment is served in any manner authorized by law.
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.

01-111. Severability. If any section, subsection, paragraph, subparagraph, sentence, item, clause, phrase or any portion of this Ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, or if any provision of any part of this Ordinance as applied to any particular situation or set of circumstances be declared invalid or unconstitutional, such invalidity shall not be construed to affect the remaining portions of this Ordinance not so held to be invalid, or the application of this Ordinance or other circumstances not so held to be invalid. It is hereby declared to be the intent that the section, subsection, paragraph, subparagraph, sentence, item, clause, phrase or any portion of this Ordinance shall be treated as severable.

01-112. Repeal of Conflicting Ordinances. That all Ordinances in conflict herewith and all provisions in the Monteagle Municipal Code in conflict herewith are hereby repealed in their entirety, to the extent of any conflicts.

This Ordinance shall take effect immediately upon its final passage, the public welfare requiring it.

Passed 1st reading July 17, 2024

Passed 2nd reading July 29, 2024

Ray Mahaf
Mayor

Debbie Taylor
Town Recorder

APPROVED AS TO FORM:

Town Attorney