

SULLIVAN COUNTY, TENNESSEE - RESOLUTION NO. _____

**A RESOLUTION FOR THE
WATER QUALITY MANAGEMENT OF PERMANENT STORMWATER SYSTEMS**

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WHEREAS, the County of Sullivan is the holder of a National Pollutant Discharge Elimination System (NPDES) Stormwater Permit No. TN3075281; and,

WHEREAS, a resolution is needed to regulate storm drainage facilities, grading, excavation, clearance, and other alteration of the land in order to limit the dangers of personal injury, property or environmental damage caused by Stormwater runoff; and

WHEREAS, a resolution is needed for compliance with state and federal regulations of the Clean Water Act; and

WHEREAS, the proposed County Resolution has been developed with input from the North East Tennessee Stormwater Association; the Sullivan County Regional Planning Commission, the Municipal Technical Advisory Service as well as the Tennessee Department of Environment & Conservation.

NOW, THEREFORE, BE IT ORDAINED BY THE HONORABLE MAYOR AND THE BOARD OF COUNTY COMMISSIONERS OF SULLIVAN COUNTY, TENNESSEE, AS FOLLOWS:

SECTION 1. GENERAL PROVISIONS

1.1 Purpose.

It is the purpose of this resolution to:

- a) Apply to all areas located within the jurisdiction of the County of Sullivan, Tennessee. **(NOTE: T.C.A. §68-221-1105(d) says county only empowered to exercise authority outside jurisdiction of incorporated city or town.)**
- b) Protect, maintain, and enhance the environment of the County of Sullivan and the public health, safety and the general welfare of the citizens of the County, by controlling discharges of pollutants to the public Stormwater system, with the intent of maintaining and improving the quality of the receiving waters into which the Stormwater outfalls flow, including, without limitation, Lakes, rivers, Streams, Ponds, Wetlands, and groundwater of the County.
- c) Enable the County of Sullivan to comply with the National Pollutant Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR 122.26 for Stormwater discharges.
- d) Allow the County of Sullivan to exercise the powers granted in Tennessee Code Annotated 68-221-1105 and other powers counties and municipalities have with respect to water quality management including the power to:
 - 1) Exercise general regulation over the planning, location, construction, and operation and maintenance of Stormwater facilities and Water Quality Management Facilities in the County, whether or not owned and operated by the County;
 - 2) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;
 - 3) Establish standards to regulate the quantity of Stormwater discharged and to regulate Stormwater contaminants as may be necessary to protect water quality;
 - 4) Review and approve plans and plats for Stormwater management and water quality management in proposed subdivisions or commercial Developments;
 - 5) Issue permits for Stormwater discharges or for the Construction, alteration, extension, or repair of Stormwater facilities and Water Quality

- Management Facilities;
- 6) Suspend or revoke permits when it is determined that the permittee has violated any applicable provision of this resolution or condition of the permit;
 - 7) Regulate and prohibit discharges into Stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and
 - 8) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of Stormwater contamination, whether public or private.

1.2. Administration.

The Stormwater Administrator and the staff under the Stormwater Administrator's supervision shall administer the provisions of this resolution.

SECTION 2. DEFINITIONS

For purposes of this chapter, 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. For the purpose of this chapter, the following definitions shall apply:

Best Management Practices (BMP or BMPs) - Schedules of activities, prohibitions of practices, maintenance procedures, Water Quality Management Facilities, structural controls and other management practices designed to prevent or reduce the pollution of waters of the United States. Water quality BMPs may include structural devices, such as Water Quality Management Facilities, or non-structural practices such as buffers or natural open spaces.

CFR - Code of Federal Regulations.

Channel - A natural or man-made watercourse of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water.

County - County of Sullivan, Tennessee

Stormwater Administrator - The Stormwater Administrator of the County of Sullivan, Tennessee, or designee.

Construction - Any placement, assembly, forming, making, establishment or installation of facilities, structures, or equipment (including contractual obligations to purchase such) at the premises where such facilities, structures, or equipment will be used or located, including preparation work at such premises.

Covenant for Permanent Maintenance of Water Quality Facilities and Best Management Practices - A legal document executed by the Property Owner, or a homeowners' association as Owner of record, and recorded with the Register of Deeds in Sullivan County, Tennessee, which guarantees perpetual and proper maintenance of Water Quality Management Facilities and Best Management Practices.

Development - Any land change that alters the hydrologic or hydraulic conditions of any property - often referred to as "site development". Development includes, but is not limited to, providing access to a site, clearing of vegetation, grading, earth moving, providing utilities, roads and other services such as parking facilities, Water Quality Management Facilities and erosion control systems, potable water and wastewater systems, altering land forms, or construction or demolition of a Structure on the land.

Development Plan - Detailed engineered/architectural drawing(s) of a commercial, industrial, institutional or residential development project, showing existing site conditions and proposed improvements with sufficient detail (e.g. technical reports, specifications, survey) for County review, approval, and then subsequent construction. The contents of a Development Plan are further defined

by the Sullivan County Zoning Resolution and/or Subdivision Regulations.

Existing Stormwater Facility - Any existing structural feature that slows, treats, filters, or infiltrates runoff after a rainfall event.

Hotspot - An area where the land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in Stormwater.

Lake - An inland body of standing water, usually of considerable size.

NPDES - National Pollutant Discharge Elimination System. NPDES is the program administered by the United States Environmental Protection Agency to eliminate or reduce pollutant discharges to the waters of the United States.

Owner or Property Owner - The legal owner of the property as recorded in the Register of Deeds office for Sullivan County, Tennessee, including a lessee, guardian, receiver or trustee, operator of a business, and the said Person's duly authorized agent.

Person - Any individual, firm, corporation, partnership, association, organization or entity, including governmental entities, or any combination thereof.

Pond - An inland body of standing water that is usually smaller than a Lake.

Redevelopment - The improvement of a lot or lots that have been previously developed.

Sediment - Solid material, either mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by erosion.

Stormwater - Also "Stormwater Runoff" or "Runoff". Surface water resulting from rain, snow or other form of precipitation, which is not absorbed into the soil and results in surface water flow and drainage.

Stream - For the specific purpose of Vegetated Buffers, a Stream is defined as a linear surface water conveyance that can be characterized with either perennial or ephemeral base flow and:

- a. is regulated by the County as a Special Flood Hazard Area (SFHA); or
- b. is, or has been, identified by the County, the United States Army Corps of Engineers or the Tennessee Department of Environment and Conservation as a Stream.

Structure - Anything constructed or erected such that the use of it requires a more or less permanent location on or in the ground. Such construction includes, but is not limited to, objects such as buildings, towers, smokestacks, overhead transmission lines, carports and walls.

TDEC's Permanent Stormwater Management Guidance Manual - A document prepared and maintained by the State of Tennessee which contains policies, design standards and criteria, technical specifications and guidelines, maintenance guidelines, and other supporting documentation to be used, as amended by the Stormwater Administration, as the policies and technical guidance for implementation of the provisions of this resolution.

TDEC - The Tennessee Department of Environment & Conservation.

TMDL - Total Maximum Daily Load. A TMDL is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that amount to the source(s) of the pollutant.

Transporting - Any moving of earth materials from one place to another, other than such movement incidental to grading, as authorized on an approved plan.

Vegetated Buffer - A use-restricted vegetated area that is located along the perimeter of Streams, Ponds, Lakes or Wetlands, containing natural vegetation and grasses, or enhanced or restored vegetation.

Water Quality Management Facilities - Structures and constructed features designed to prevent or reduce the discharge of pollution in Stormwater runoff from a Development or Redevelopment. Water Quality Management Facilities can often be referred to as BMPs.

Water Quality Management Plan - An engineering plan for the design of Water Quality Management Facilities and Best Management Practices within a proposed Development or Redevelopment. The Water Quality Management Plan includes a map showing the extent of the land development activity and location of Water Quality Management Facilities and BMPs, design calculations for Water Quality

Management Facilities and BMPs, and may contain record drawings/certifications and Covenants for Permanent Maintenance of Water Quality Facilities and Best Management Practices.

Water Quality Volume Reduction – A decrease in the water quality volume for one or more areas of a proposed Development which is obtained only for specific site Development features or approaches that can reduce or eliminate the discharge of pollutants in Stormwater runoff. Water Quality Volume Reductions can only be obtained when specific guidelines presented in the TDEC’s Permanent Stormwater Management Guidance Manual are met.

Water Quality Volume Reduction Areas - Areas with the proposed Development or Redevelopment for which a Water Quality Volume Reduction can be obtained.

Wetland - An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetland determination shall be made by the United States Army Corps of Engineers, and/or the Tennessee Department of Environment and Conservation, and/or the Natural Resources Conservation Service.

SECTION 3. AUTHORITY

- a) Authority for this resolution is derived from state and federal law, including, but not limited to, those set forth in Section 1.1 “Purposes” hereinabove.
- b) The Stormwater Administrator is authorized to adopt additional policies, criteria, specifications and standards in addition to the TDEC’s Permanent Stormwater Management Guidance Manual for the proper implementation of the requirements of this resolution. The policies, criteria and requirements of the TDEC’s Permanent Stormwater Management Guidance Manual shall be enforceable, consistent with other provisions of this resolution.
- c) The Stormwater Administrator shall have the authority to prepare, or have prepared, master plans for drainage basins and to establish regulations and require necessary capital improvements to carry out said master plans.
- d) In the event that the Stormwater Administrator determines that a violation of any provision of this resolution has occurred, or that work or Development does not have a required plan or permit, or that work or Development does not comply with an approved plan or permit, the Stormwater Administrator may issue a Notice of Violation to the permittee or Property Owner and/or any other Person or entity having responsibility for construction work or Development performed at a site development.

SECTION 4. WATER QUALITY MANAGEMENT

4.1 General Requirements

- a) Owners of land Development activities not exempted under section 4.3 must submit a Water Quality Management Plan. The Water Quality Management Plan shall include the specific required elements that are listed and/or described in the TDEC’s Permanent Stormwater Management Guidance Manual. The Stormwater Administrator may require submittal of additional information in the Water Quality Management Plan as necessary to allow an adequate review of the existing or proposed site conditions.
- b) The Water Quality Management Plan shall be subject to any additional requirements set forth in the subdivision regulations, zoning resolution, or other County resolutions and regulations.
- c) Water Quality Management Plans shall be prepared and stamped by an engineer, landscape architect, or architect competent in civil and site design and licensed to practice in the State of Tennessee. Portions of the Plan that require hydraulic or

- hydrologic calculations and design shall be prepared and stamped by a licensed professional competent in civil and site design and licensed to practice in the State of Tennessee.
- d) The approved Water Quality Management Plan shall be adhered to during grading and Construction activities. Under no circumstance is the Owner or operator of land Development activities allowed to deviate from the approved Water Quality Management Plan without prior approval of a plan amendment by the Stormwater Administrator.
 - e) The approved Water Quality Management Plan shall be amended if the proposed site conditions change after plan approval is obtained, or if it is determined by the Stormwater Administrator during the course of grading or Construction that the approved plan is inadequate.
 - f) The Water Quality Management Plan shall include a listing of any legally protected state or federally listed threatened or endangered species and/or critical habitat (if applicable) located in the area of land disturbing activities, and a description of the measures that will be used to protect them during and after grading and Construction (refer to the Notice of Coverage Permit from TDEC for this information).
 - g) Water Quality Management Facilities, BMPs, Vegetated Buffers and Water Quality Volume Reduction Areas shown in Water Quality Management Plans shall be maintained through the declaration of a protective covenant entitled Covenants for Permanent Maintenance of Water Quality Facilities and Best Management Practices (Covenant) and shall also be referenced on such final plat. The Covenant shall be recorded with the Register of Deeds in Sullivan County, Tennessee and shall run with the land and continue in perpetuity.
 - h) Water Quality Management Facilities, BMPs, Vegetated Buffers and Water Quality Volume Reduction Areas shall be illustrated on all final Development Plans and/or subdivision plats.
 - i) A maintenance right-of-way or easement, having a minimum width of twenty (20) feet shall be provided to all Water Quality Management Facilities, BMPs, Vegetated Buffers and Water Quality Volume Reduction Areas from a driveway, public road or private road.
 - j) Owners of land Development activities not exempted from submitting a Water Quality Management Plan may be subject to additional watershed or site-specific requirements than those stated in section 4.2 of this resolution in order to satisfy local or State NPDES, TMDL or other regulatory water quality requirements. Areas subject to additional requirements may also include Developments, Redevelopments or land uses that are considered pollutant Hotspots or areas where the Stormwater Administrator has determined that additional restrictions are needed to limit adverse impacts of the proposed Development on water quality or Channel protection.
 - k) The Stormwater Administrator may waive or modify any of the requirements of Section 4 of this resolution if adequate water quality treatment and Channel protection are suitably provided by a downstream or shared off-site water quality management facility, or if engineering studies determine that installing the required Water Quality Management Facilities or BMPs would actually cause adverse impact to water quality or cause increased Channel erosion or downstream flooding.
 - l) This resolution is not intended to repeal, abrogate, or impair any existing easements, covenants, deed restrictions, or existing resolutions and regulations. However, where the provisions of this resolution and another regulation conflict or overlap, that provision which is more restrictive or imposes higher standards or requirements shall prevail. It is required that the Stormwater Administrator be advised of any such regulatory conflicts upon submittal of the Water Quality Management Plan.

4.2 Design Criteria

- a) All Developments or Redevelopments that must submit a Water Quality Management Plan shall provide treatment of Stormwater runoff in accordance with the following requirements:
 - 1) Stormwater runoff site must be treated for water quality prior to discharge from the Development or Redevelopment site in accordance with the Stormwater treatment standards and criteria provided in the TDEC's Permanent Stormwater Management Guidance Manual.
 - 2) The treatment of Stormwater runoff shall be achieved through the use of one or more Water Quality Management Facilities and/or BMPs that are designed and constructed in accordance with the design criteria, guidance, and specifications provided in the TDEC's Permanent Stormwater Management Guidance Manual.
 - 3) Methods, designs or technologies for Water Quality Management Facilities or BMPs that are not provided in the TDEC's Permanent Stormwater Management Guidance Manual may be submitted for approval by the Stormwater Administrator if it is proven that such methods, designs or technologies will meet or exceed the Stormwater treatment standards set forth in the TDEC's Permanent Stormwater Management Guidance Manual and this resolution. Proof of such methods, designs, or technologies must meet the minimum testing criteria set forth in the TDEC's Permanent Stormwater Management Guidance Manual.
 - 4) BMPs shall not be installed within public rights-of way or on public property without prior approval of the Stormwater Administrator.
- b) All Owners of Developments or Redevelopments who are required to submit a Water Quality Management Plan shall provide downstream Channel erosion protection in accordance with design criteria stated in the TDEC's Permanent Stormwater Management Guidance Manual. Downstream Channel erosion protection can be provided by an alternative approach in lieu of controlling the Channel protection volume subject to prior approval by the Stormwater Administrator. Sufficient hydrologic and hydraulic analysis that shows that the alternative approach will offer adequate Channel protection from erosion must be presented in the Water Quality Management Plan.
- c) All Developments or Redevelopments that must submit a Water Quality Management Plan shall establish, protect and maintain a Vegetated Buffer in accordance with the policies, criteria and guidance set forth in the TDEC's Permanent Stormwater Management Guidance Manual along all Streams, Ponds, Lakes and Wetlands. Exemptions from this requirement are as follows:
 - 1) Vegetated Buffers are not required around the perimeter of Ponds that have no known connection to Streams, other Ponds, Lakes or Wetlands (such as man-made cattle ponds).
 - 2) Vegetated Buffers are not required around Water Quality Management Facilities or BMPs that are designed, constructed and maintained for the purposes of water quality and/or quantity (i.e., Stormwater drainage) control, unless expressly required by the design standards and criteria for the facility that are provided in the TDEC's Permanent Stormwater Management Guidance Manual.
- d) In addition to the above requirements, all Owners of Developments or Redevelopments that must submit a Water Quality Management Plan shall:
 - 1) provide erosion prevention and Sediment control in accordance with the resolutions and regulations of the County;
 - 2) control Stormwater drainage and provide peak discharge/volume control in accordance with the resolutions and regulations of the County; and

- 3) adhere to *The Sullivan County Flood Damage Protection Resolution* regarding Development requirements.

4.3 Exemptions

- a) Owners of Developments and Redevelopments who conform to the criteria in section 4.3.c are exempt from the requirements of this Section, unless the Stormwater Administrator has determined that treatment of Stormwater runoff for water quality is needed in order to satisfy local or State NPDES, TMDL or other regulatory water quality requirements, or the proposed Development will be a pollutant Hotspot, or to limit adverse water quality or Channel protection impacts of the proposed Development.
- b) The exemptions listed in section 4.3.c shall not be construed as exempting these Owners of Developments and Redevelopments from compliance with Stormwater requirements stated in the subdivision regulations, zoning resolution, or other County resolutions and regulations.
- c) The following Developments and Redevelopments are exempt from the requirements for a Water Quality Management Plan:
 - 1) Developments or Redevelopments that disturb less than one (1) acre of land. No exemption is granted if the Development or Redevelopment is part of a larger common plan of Development or sale that would disturb one (1) acre or more, and the Stormwater runoff from the Development or Redevelopment is not treated for water quality via a downstream or regional Water Quality Management Facility or BMP that meets the requirements of this resolution;
 - 2) minor land disturbing activities such as residential gardens and residential or non-residential repairs, landscaping, or maintenance work;
 - 3) individual utility service connections, unless such activity is carried-out in conjunction with the clearing, grading, excavating, Transporting, or filling of a lot or lots for which a Water Quality Management Plan would otherwise be required;
 - 4) installation, maintenance or repair of individual septic tank lines or drainage fields, unless such activity is carried out in conjunction with the clearing, grading, excavating, Transporting, or filling of a lot or lots for which a Water Quality Management Plan would otherwise be required;
 - 5) installation of posts or poles;
 - 6) farming activities; and
 - 7) emergency work to protect life, limb or property, and emergency repairs.

4.4 Performance Bonds - Performance Bonds may be required by the Sullivan County Regional Planning Commission for an initial minimum period of one year post final Construction and/or final plat approval for maintenance purposes of the permanent stormwater systems constructed, pursuant to the *Subdivision Regulations, Article IV. Section B*.

- a) A performance bond which guarantees satisfactory completion of construction work related to Water Quality Management Facilities, Channel protection, and/or the establishment of Vegetated Buffers may be required.
- b) Performance bonds shall name the County of Sullivan, Tennessee, as beneficiary and shall be guaranteed in the form of a surety bond, cashier's check, or letter of credit from an approved financial institution or insurance carrier. The surety bond, cashier's check, or letter of credit shall be provided in a form and in an amount to be determined by the Stormwater Administrator or the Highway Commissioner for the County as approved by the Sullivan County Regional Planning Commission. The actual amount shall be based on submission of plans and estimated construction, installation or potential maintenance and/or remediation expenses.
- c) The Stormwater Administrator may refuse brokers or financial institutions the right to provide a surety bond, letter of credit, or cashier's check based on past performance, ratings of the financial institution, or other appropriate sources of reference information.

4.5 Special Pollution Abatement Requirements

- a) A Special Pollution Abatement Plan shall be required for the following land uses, which are considered pollutant Hotspots:
- 1) vehicle, truck or equipment maintenance, fueling, washing or storage areas including but not limited to: automotive dealerships, automotive repair shops, and car wash facilities;
 - 2) recycling and/or salvage yard facilities;
 - 3) restaurants, grocery stores, and other food service facilities;
 - 4) confined animal feeding operations of a commercial nature with outside animal housing areas and commercial facilities such as but not limited to animal shelters, fish hatcheries, kennels, livestock stables, veterinary clinics, or zoos;
 - (5) Developments or Redevelopments occupying potentially hazardous locations as follows:
 - (a) Any site on a list, register, or database compiled by the United States Environmental Protection Agency (EPA), the State of Tennessee Department Environment and Conservation (TDEC), or the County, for investigation, clean up, or other action regarding contaminants under any federal or state environmental law shall be a potentially hazardous location under this Subtitle. When EPA or TDEC removes the site from the list, register or database, or when the Owner otherwise establishes that contaminants do not pose a present or potential threat to human health or the environment, the site will no longer be considered a potentially hazardous location.
 - (b) The following properties may also be designated by the Stormwater Administrator as potentially hazardous locations:
 - (i) Existing and abandoned solid waste disposal sites;
 - (ii) (ii) Hazardous waste treatment, storage, or disposal facilities, all as defined by the federal Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.
 - (iii) Sites in which historical knowledge of land use or known past land use activity on the site requires designation as a potentially hazardous location. When the Owner provides evidence satisfactory to the Stormwater Administrator that contaminants do not pose a present or potential threat to human health or the environment, the site will no longer be considered a potentially hazardous location.
 - 6) other producers of pollutants identified by the Stormwater Administrator as a pollutant Hotspot using information provided to or collected by him/her or his/her representatives, or reasonably deduced or estimated by him/her or his/her representatives from engineering or scientific study.
- b) A Special Pollution Abatement Plan may be required for land uses or activities that are not identified by this resolution as Hotspot land uses, but are deemed by the Stormwater Administrator to have the potential to generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in storm water.
- c) The Special Pollution Abatement Plan shall be submitted as part of the Water Quality Management Plan, and the BMPs submitted on the plan shall be subject to all other provisions of this resolution. Technical requirements for the plan shall be based on the provisions and guidelines set forth in the TDEC's Permanent Stormwater Management Guidance Manual.

- d) Best Management Practices specified in the Special Pollution Abatement Plan must be appropriate for the pollutants targeted at the site and must be approved with the Water Quality Management Plan.
- e) A Special Pollution Abatement Plan will be valid for a period of five (5) years, at which point it must be renewed. At the time of renewal, any deficiency in the pollutant management method must be corrected.

SECTION 5. NPDES PERMITS

Persons or entities who hold NPDES general, individual and/or multi-sector permits shall provide either a copy of such permit or the permit number assigned to them by the Tennessee Department of Environment and Conservation to the Stormwater Administrator no later than sixty (60) calendar days after issuance of the permit (Notice of Coverage Permit).

SECTION 6. RECORD DRAWINGS/AS-BUILT PLANS AND PLATS/DESIGN CERTIFICATION

- a) Prior to the release of a bond, or before a Certificate of Occupancy is granted, record drawings shall be provided to the Stormwater Administrator, certifying that all Water Quality Management Facilities and BMPs comply with the design shown on the approved Water Quality Management Plan(s). Features such as the boundaries of Vegetated Buffers and Water Quality Volume Reduction Areas shall be provided to verify approved plans. Other contents of the record drawings must be provided in accordance with guidance provided in the TDEC's Permanent Stormwater Management Guidance Manual.
- b) Record drawings shall include sufficient design information to show that Water Quality Management Facilities required by this resolution will operate as approved. This shall include all necessary computations used to determine percent pollutant removal and the flow rates and treatment volumes required to size Water Quality Management Facilities and BMPs.
- c) The record drawings shall be stamped by the appropriate design professional required to stamp the Water Quality Management Plan, as stated in section 4.1 of this resolution.

SECTION 7. INSPECTIONS AND MAINTENANCE

7.1 Right of Entry

- a) During and after Construction, the Stormwater Administrator may enter upon any property during all reasonable hours to inspect for compliance with the provisions of this resolution, or to request or perform corrective actions.
- b) Failure of a Property Owner to allow such entry onto a property for such purposes shall be cause for the issuance of a stop work order, withholding of a certificate of occupancy, and/or civil penalties and/or damage assessments in accordance with Section 11 of this resolution.

7.2 Requirements

- a) The Owner(s) of existing Stormwater facilities, Water Quality Management Facilities, BMPs, Vegetated Buffers and Water Quality Volume Reduction Areas shall at all times inspect and properly operate and maintain all facilities and systems of water quality treatment and drainage control (and related appurtenances), and all Vegetated Buffers and Water Quality Volume Reduction Areas in such a manner as to maintain the full

- function of the facilities or Best Management Practices which are installed or used by the Property Owner(s) to achieve compliance with this resolution.
- b) Inspection and maintenance of privately-owned facilities, including existing Stormwater facilities, Water Quality Management Facilities, Best Management Practices, Vegetated Buffers and Water Quality Volume Reduction Areas shall be performed at the sole cost and expense of the Owner(s) of such facilities/areas.
 - c) Inspections and maintenance shall be performed in accordance with specific requirements and guidance provided in the TDEC's Permanent Stormwater Management Guidance Manual. Inspection and maintenance activities shall be documented by the Property Owner (or his/her designee), and such documentation shall be maintained by the Property Owner for a minimum of three (3) years, and shall be made available for review by the Stormwater Administrator upon request.
 - d) The Stormwater Administrator has the authority to impose more stringent inspection requirements as necessary for purposes of water quality protection and public safety.
 - e) Prior to release of the performance bond, or before a Certificate of Occupancy is granted, the Property Owner shall provide the County with an as-built site plan/final plat and an executed Covenant for Permanent Maintenance of Water Quality Facilities and Best Management Practices for all BMPs, Vegetated Buffers, and areas that receive Water Quality Volume Reductions. The Property Owner shall record these items in the Office of the Register of Deeds for Sullivan County, Tennessee. The location of the Best Management Practices, Water Quality Management Facilities, Vegetated Buffers and Water Quality Volume Reduction Areas, and the water quality easements associated with these facilities/areas, shall be shown on the plat that is also recorded in the Office of the Register of Deeds for Sullivan County, Tennessee.
 - f) The removal of Sediment and/or other debris from existing Stormwater facilities, Water Quality Management Facilities and Best Management Practices shall be performed in accordance with all County, State, and Federal laws. Guidelines for Sediment removal and disposal are referenced in the TDEC's Permanent Stormwater Management Guidance Manual. The Stormwater Administrator may stipulate additional guidelines if deemed necessary for public safety.
 - g) The Stormwater Administrator may order corrective actions to Best Management Practices, existing Stormwater facilities, Water Quality Management Facilities, Vegetated Buffer areas and/or Water Quality Volume Reduction Areas as are necessary to properly maintain the facilities/areas within the County for the purposes of water quality treatment, Channel erosion protection, adherence to local performance standards, and/or public safety. If the Property Owner(s) fails to perform corrective action(s), the Stormwater Administrator shall have the authority to order the corrective action(s) to be performed by the County or others. In such cases where a performance bond exists, the County shall utilize the bond to perform the corrective actions. In such cases where a performance bond does not exist, the Property Owner shall reimburse the County for double its direct and related expenses. If the Property Owner fails to reimburse the County, the County is authorized to file a lien for said costs against the property and to enforce the lien by judicial foreclosure proceedings.
 - h) This resolution does not authorize access to adjoining private property by the Property Owner or site operator. Arrangements concerning removal of Sediment or pollutants on adjoining property must be settled by the Owner or operator with the adjoining landowner.

SECTION 8. PERMIT CONTROLS AND STORMWATER SYSTEM INTEGRITY

- a) Any alteration, improvement, or disturbance to Water Quality Management Facilities, Vegetated Buffers or Water Quality Volume Reduction Areas shown in certified record drawings shall be prohibited without authorization from the Stormwater Administrator. This does not include alterations that must be made in order to maintain the intended performance of the Water Quality Management Facilities or BMPs.
- b) Other State and/or Federal permits that may be necessary for Construction in and around Streams and/or Wetlands shall be approved through the appropriate lead regulatory agency prior to submittal of a Water Quality Management Plan to the County.

SECTION 9. SEVERABILITY

- a) Each separate provision of this resolution is deemed independent of all other provisions herein so that if any provision or provisions of this resolution shall be declared invalid, all other provisions thereof shall remain enforceable.
- b) If any provisions of this resolution and any other provisions of law impose overlapping or contradictory regulations, or contain any restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards or requirements shall govern.

SECTION 10. RESPONSIBILITY

This resolution does not imply a warranty or the assumption of responsibility on the part of the County for the suitability, fitness or safety of any Structure with respect to flooding, water quality, or structural integrity. This resolution is a regulatory instrument only, and is not to be interpreted as an undertaking by the County to design any Structure or facility.

SECTION 11. PENALTIES AND APPEALS

- a) Violations of this resolution shall be cause for the requirement for corrective action(s), the issuance of a stop work order, withholding of a permit, withholding of permit inspections, withholding of a certificate of occupancy, and/or civil penalties and/or damage assessments as set forth below.
- b) Any Person who violates the provisions of this resolution shall be subject to a civil penalty of not less than fifty dollars (\$50.00) or more than five thousand dollars (\$5,000) per day for each day of each violation. Each day of violation may constitute a separate violation. The County shall give the alleged violator reasonable notice of the assessment of any civil penalty. The County may also recover all damages proximately caused to the County by such violations.
- c) In assessing a civil penalty, the following factors may be considered:
 - (1) The harm done to the public health or the environment;
 - (2) Whether the civil penalty imposed will be substantial economic deterrent to the illegal activity;
 - (3) The economic benefit gained by the violator;
 - (4) The amount of effort put forth by the violator to remedy this violation;
 - (5) Any unusual or extraordinary enforcement costs incurred by the County;
 - (6) The amount of penalty established by resolution or resolution for specific categories of violations; and

- (7) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.
- d) In addition to the civil penalty in subsection (b) above, the County may also assess damages proximately caused by the violator to the County which may include any reasonable expenses incurred in investigating and enforcing violations of this part, or any other actual damages caused by the violation.
 - e) Notice of damage assessment and civil penalty shall be served upon the alleged violator by personal delivery or certified mail, return receipt requested. Service by mail shall be deemed complete upon mailing. If the alleged violator is dissatisfied, the alleged violator may appeal said civil penalty or damage assessment. Appeal from any assessment of civil penalty or damages or both, shall be to a five-member panel comprised of the Sullivan County Highway Commissioner or designee, the Building Commissioner, the County Attorney, the Stormwater Administrator or designee, and the Commission Member who represents the County on the Sullivan Regional Planning Commission. Said appeal must be received by the Stormwater Administrator's office within thirty (30) days after service of the notice of damage assessment and civil penalty. The appeal shall be heard by the panel within thirty (30) days of receipt. The panel may continue the hearing and allow continuances to either the County or the alleged violator for good cause shown. If a timely appeal of the damage assessment or civil penalty is not filed with the Stormwater Administrator's office, the violator shall be deemed to have consented to the damage assessment or civil penalty and it shall become final. If the alleged violator files a timely appeal with the Stormwater Administrator's office and the violator is dissatisfied with the decision of the panel, the alleged violator may appeal the decision of the panel pursuant to the provisions of title 27, chapter 8, section 102 of the Tennessee Code.
 - f) Whenever any damage assessment or civil penalty has become final because of a Person's failure to appeal the damage assessment or civil penalty, the County may apply to the appropriate chancery court for a judgment and seek execution of such judgment. The court, in such proceedings, shall treat the failure to appeal such damage assessment or civil penalty as a confession of judgment.

Planning Commission Public Meeting/First Reading on August 19, 2008
Planning Commission Public Hearing/Final Reading on September 16, 2008
County Commission Public Hearing/Final Reading on October 20, 2008
(sponsors: McKamey, Ferguson, Brotherton, Jones, B.King –
motion for adoption by Waiver of Rules passed 21 yes, 2 pass and 1 absent)