

RESOLUTION

No. 2019 / 07 / 01

To the HONORABLE MICHAEL HERRELL, Chairman, and Members of the Hawkins County Board of Commission in Special Called Session, met this 22nd day July 2019.

RESOLUTION IN REF: APPOINTMENT TO FILL THE VACANCY LEFT BY THE RESIGNATION OF HOLLY HELTON, THE ELECTED SCHOOL BOARD MEMBER FOR THE SEVENTH DISTRICT OF HAWKINS COUNTY

WHEREAS, Holly Helton, elected School Board member for the Seventh District of Hawkins County, resigned on June 11, 2019. The Board of Commissioners and the public have been notified of the vacancy: and

WHEREAS, said vacancy should be filled until the next general election which will be in August of 2020.

THEREFORE, nomination for the position are now open to the public and the following people are being nominated and recognized for the position by the said commissioner/s.

- 1. Frankie Knight nominated by Donnie Talley.
2. Judy Woods Trent nominated by Michael Herrell.
3. _____ nominated by _____
4. _____ nominated by _____

NOW, THEREFORE BE IT FURTHER approved that _____ has been selected to fill the term of the First School Board District, beginning immediately and serving until a candidate is certified in the next General Election, in August 2012,

Introduced By Esq. Michael Herrell & Donnie Talley

Seconded By Esq.

Date Submitted 7-8-19

County Clerk [Signature]

By: _____

Chairman _____

Mayor _____
Jim Lee, County Mayor

ACTION: AYE NAY PASSED

Roll Call _____

Voice Vote _____

Absent _____

COMMITTEE ACTION

Mayor's Action: Approved _____ Veto _____

RESOLUTION

No 2019/ 07 / 02

To the HONORABLE MICHAEL HERRELL, Chairman, and Members of the Hawkins County Board of Commission in Regular Session, met this 22nd day of July, 2019.

RESOLUTION IN REF: TO REDUCE POLLUTION BY REVISING STORMWATER, GRADING, VEGETATION, EROSION AND SEDIMENTATION CONTROL MEASURES.

WHEREAS according to the Census Bureau, portions of Hawkins County, Tennessee are part of the Kingsport Urbanized area. This means that Hawkins County is designated as a MS4 Phase II Storm Water entity and must adopt and enforce stormwater regulations; and

WHEREAS, the attached resolution is necessary to update the MS4 processes mandated by the State of Tennessee Environment and Conservation Department; and

WHEREAS, on May 30, 2019, the Hawkins County Planning Commission reviewed the resolution and voted to send it on to the Environmental Committee for review. The Environmental Committee met on June 19, 2019, to review the resolution and voted to send it to full commission for approval.

THEREFORE, BE IT RESOLVED that approval of the attached resolution be given by the Board of Commissioners; and

FURTHER, BE IT RESOLVED that

1. All previous resolutions pertaining to stormwater and listed on page 34 of this resolution, will be rescinded.
2. The attached resolution will become the current StormWater Regulation document for Hawkins County, TN.

Introduced By Esq. Danny Alvis, Chrmn Env. Comm.

Seconded By Esq. _____

Date Submitted

7-8-19

County Clerk

[Handwritten Signature]

By: _____

Chairman _____

Mayor _____

Jim Lee, County Mayor

ACTION: AYE NAY PASSED

Roll Call _____

Voice Vote _____

Absent _____

COMMITTEE ACTION

Mayor's Action: Approved _____

Veto _____

RESOLUTION

HAWKINS COUNTY, TENNESSEE

A RESOLUTION TO REDUCE POLLUTION BY ESTABLISHING STORMWATER, GRADING, VEGETATION EROSION AND SEDIMENTATION CONTROL MEASURES

WHEREAS, uncontrolled stormwater drainage and discharge have a significant adverse on the health, safety and general welfare of the residents of Hawkins County, and an adverse impact on the natural environment by carrying pollutants into the receiving waters within the county; and WHEREAS, Hawkins County is required by federal law, particularly 33 U.S.C. 1342(p) and 40 CFR 122.26 to obtain a National Pollutant Discharge Elimination System (NPDES) permit through the Tennessee Department of Environment and Conservation (TDEC) to reduce stormwater flows and associated pollutants discharged into waterways through Hawkins County's stormwater system and drainage ways; and

WHEREAS, the NPDES permit requires the County to impose controls on future and existing development necessary to reduce the discharge of pollutants in stormwater to the maximum reasonable extent using management practices, control techniques and system design and engineer methods, and such other provisions that are determined to be appropriate for the control of such pollutants.

NOW, THEREFORE, BE IT ORDAINED **by the Hawkins County Board of County Commissioners as follows:**

101. Short title.
102. Purpose.
103. Definitions.
104. Regulated land disturbing activities.
105. Permit required for any land disturbing activity.
106. Grading, vegetation, drainage, and erosion and sedimentation control plans required.
107. Plan requirements.
108. Plan must contain measures to meet approved standards
109. Stormwater design and BMP manuals.
110. Additional plan requirements for discharges into exceptional Tennessee or unavailable parameter waters.
111. Priority construction sites.
112. Buffers.
113. Permanent stormwater management and post construction facilities.
114. Plan development at owner's/developer's expense.
115. Plan submitted to stormwater manager and/or designee.
116. Re-submittal of DCSP
117. Speedy review of plan.
118. Grading permit and bond.
119. Stormwater manager and/or designee may require additional protective measures.
120. Retention/detention facilities and drainage structures maintained.
121. Improperly maintained retention/detention facilities and drainage structures a violation.
122. County may take ownership of retention facilities and drainage structures.
123. Technical assistance.
124. Stormwater manager and/or designee responsible for providing safeguards in projects of less than one (1) acre
125. Existing developed properties with drainage, erosion and sediment concerns.
126. Improvements required in existing development normally at owner's expense.
127. County may take responsibility for existing retention facilities and drainage structures.
128. Improvements needed at existing locations determined by the building inspector and/or designee.
129. Improvements required with existing developments subject to appeal.
130. Illicit discharges.
131. Monitoring, reports, and inspections.
132. Plan construction acceptance and bond release.
133. Appeal of administrative action.
134. County clean up resulting from violations at developer/owner's expense.
135. Penalties enforcement.
136. Legal status Provision.

Appendix A. Enforcement Response Plan

101. Short title. This chapter shall be known as the Stormwater Management, Erosion and Sedimentation Control Resolution of Hawkins County Tennessee. The provisions herein apply only to the unincorporated areas of the county as specified by the US Census Bureau based on census data as being part of the Kingsport Urbanized Area.

102. Purpose. The purpose of this chapter is to conserve the land, water and other natural resources of Hawkins County; and promote the public health and welfare of the people by establishing requirements for the control of stormwater, erosion and sedimentation by establishing procedures whereby these requirements shall be administered and enforced; and to diminish threats to public safety from degrading water quality caused by the run-off of excessive stormwater and associated pollutants, to reduce flooding and the hydraulic overloading of the county's stormwater system; and to reduce the economic loss to individuals and the community at large.

103. 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 first as defined in the TDEC NPDES Permit for Discharges from Small Municipal Storm Sewer Systems Permit No. TNS000000 issued September 30, 2016 and any subsequent updates and second the common and ordinary use as defined in the latest edition of Webster's Dictionary.

- (1) **As-built plans.** Drawings depicting conditions as they were actually constructed.
- (2) **Authorized Person:** The Stormwater Manager or in his absence the designee of Hawkins County.
- (3) **Best Management Practices or BMPs.** Any physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, that have been approved by Hawkins County.
- (4) **Design storm:** The plan must be designed to control storm runoff from a 2 year, 24 hour event except for discharges to exceptional Tennessee or unavailable parameter waters which must be designed for the 5 year 24 hour event.
- (5) **Designated Enforcement Officer:** The Stormwater Manager or designee is designated to enforce this resolution.
- (6) **Development:** Any activity on one acre or more or less than one acre if part of

a larger plan of development.

(7) **Denuded Area**: Areas disturbed by grading, filling, or other such activity in which all vegetation has been removed and soil is exposed directly to the elements allowing for the possibility of erosion and stormwater sediment run-off.

(8) **Developer**: Any person, owner, individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, government entity or any other legal entity, or their legal representatives, agents or assigns.

(9) **Drainage**: A general term applied to the removal of surface or subsurface water from a given area either by gravity or by pumping; commonly applied to surface water.

(10) **Drainage area**. The geographic area or region that contributes surface runoff to a common outlet or outlets.

(11). **Drainage and sedimentation control plan (DCSP)**. For the purpose of this chapter, a drainage and sedimentation control plan refers to a formal written document addressing grading, vegetation, drainage, and stormwater flows, erosion and sedimentation controls, as specified in §§ 14-1605 through 14-1608, that is reviewed by the storm water manager and contract engineer and forwarded to the Planning Commission for consideration. If approved by the planning commission, is used as the basis for the stormwater manager to issue a grading permit that allows land disturbing activity to proceed.

(12) **Exceptional Tennessee Waters**, are surface waters of the State of Tennessee that satisfy the characteristics as listed in Rule 1200.4.3.-06 of the official compilation--rules and regulations of the State of Tennessee. Characteristics include waters designated by the Water Quality Board as Outstanding National Resource Waters (ONRW), waters that provide habitat for ecologically significant populations of certain aquatic or semi-aquatic plants or animals; waters that provide specialized recreational opportunities; waters that possess outstanding scenic or geologic values; or waters where existing conditions are better than water quality standards. (NOTE: None of these waters exist in the urbanized area at this writing June 2019.)

(13) **Grading permit**. The permit that must be issued by the stormwater manager, or in his/her absence, the county's designee, before any land disturbing activity is undertaken by a developer, or when grading, filling, or excavating is proposed on a project.

(14) **Hotspot (priority area)**. An area where land use or activities generate highly contaminated runoff with concentrations of pollutants in excess of those typically found in stormwater. Examples might include operations producing concrete or asphalt, auto repair shops, auto supply shops, large commercial parking area, restaurants.

(15) **Illicit connections**. Illegal and/or unauthorized connections to the municipal separate stormwater system whether or not such connections result in discharges into that system.

(16) **Illicit discharge**. Any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under 104 (2) and (3).

(17) **Impaired Waters**. See Unavailable Parameter Waters

(18) **Land disturbing activity**. Any construction activity that disturbs an acre or more or less than an acre when part of a common plan of development or sale of an acre or more which may result in soil erosion from water or wind and the movement of sediments into drainage ways, or local water, including, but not limited to, clearing, grading, excavating, transportation and filling of land, except that the term shall not include:

(a) Such minor land disturbing activities as home and gardens and individual home landscaping, repairs and maintenance work.

(b) Construction, installation or maintenance of individual service connections, or septic lines and drainage fields. Utility line construction of 1.65 miles for a five foot (5') wide disturbed area will require a permit. If Hawkins County is the permittee, the permit will be obtained from the Tennessee Department of Environment and Conservation.

(c) Emergency work to protect life, limb or property.

(d) Agriculture work.

(e) Work by a higher level of government over which Hawkins County does not have regulatory authority.

(19) **Maintenance agreement**. A document recorded in the land records that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

(20) **Municipal Separate Storm Sewer System (MS4)** The conveyances owned or operated by the county for the collection and transportation of stormwater, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.

(21) **Off-site facility**. A structural BMP located outside the subject property boundary described in the permit application for land development activity.

(22) **On-site facility**. A structural BMP located within the subject property boundary described in the permit application for land development activity.

(23) **Peak flow**. The maximum instantaneous rate of flow of water at a particular point resulting from a storm event.

(24) **Permanent stormwater management facility**. A permanent basin or pond or other structure including ditches and swales designed to control the amount of stormwater leaving the developed site so that the volume and velocity does not exceed the pre-development flow.

(25) **Planning Commission**. The Hawkins County Planning Commission.

(26) **Pollutant**, as used in this section means:

(a) Anything that causes or contributes to pollution. Pollutants may include, but are not limited to, oil based paints, varnishes and solvents; rubbish, garbage, litter or other discarded or abandoned objects and accumulations, so that same may cause and fertilizers; hazardous substances and wastes; sewage, fecal e-coli and pathogens; dissolved and particulate metals; animal waste; wastes and residues that result from constructing a building or structure; noxious or offensive matter of any kind; or other harmful items that may enter the storm system of the county.

(b) Dumping of unlawful items within the urbanized area.

(27) **Priority area**. Hot spot as defined above.

(28) **Priority construction activity**. Those construction activities discharging directly into, or immediately upstream of waters the state recognizes as unavailable parameter (formally impaired) (for siltation or habitat alteration) or exceptional Tennessee waters.

(29) **Runoff**. That portion of the precipitation on a drainage area that is discharged from the area into the municipal separate stormwater system.

(30) **Sediment**. Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.

(31) **Sedimentation**. Soil particles suspended in stormwater that can settle in streambeds and disrupt the natural flow of the stream.

(32) **Soils report**. A study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees.

(33) **Stormwater management facilities**. The drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed of.

(34) **Stormwater management plan**. The set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMPs, concepts and techniques intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels.

(35) **Unavailable Parameter Waters (formally Impaired waters)**. Means any segment of surface waters that has been identified by TDEC as failing to support one (1) or more classified users. For construction permits, pollutants of concern include, but are not limited to: siltation (silt/sediment) and habitat alterations. Based on the most recent assessment information available to staff, none exist in the urbanized area. The county will notify applicants and permittees if their discharge is into, or is affecting unavailable parameter waters (for siltation or habitat alteration). TDEC periodically compiles a list of such waters known as the 303(d) List. (NOTE: None of these waters exist in the urbanized area this writing, June 2019.)

(36) **Water quality buffer**. A setback from the top of a water body's bank of undisturbed vegetation, including trees, shrubs and herbaceous vegetation; enhanced or restored vegetation; or the reestablishment of native vegetation bordering streams, ponds, wetlands, springs, reservoirs or lakes, which exists or is established to protect those water bodies. 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. Buffer width depends on the size of a drainage area and whether or not runoff will impact an unavailable parameter or Exception Tennessee Water stream. Streams or other waters with drainage areas less than 1 square mile will require buffer widths of 30 feet minimum. Streams or other waters with drainage areas greater than 1 square mile will require buffer widths of 60 feet minimum. 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. A determination that prescribed buffer widths cannot be met will not be based solely on the difficulty or cost associated with complying with the prescribed buffer width, but must include multiple criteria such as: type of project, existing land use and physical conditions that preclude use of these practices. Circumstances under which the average widths will be available include but are not limited to:

- a. Projects on narrow width sites. A narrow width site is one which is less than 3 times the prescribed buffer width.
 - b. Projects which are on a slope of 12% or greater away from the stream but relatively level within 3 times the prescribed buffer width.
 - c. Projects which have streets or similar structures away from the stream.
 - d. Projects which have streets or stream crossings which will impact the prescribed buffer.
 - e. Existing developed sites which already encroach into the prescribed buffer.
- There are no unavailable parameter (for siltation or habitat alternation) or Exceptional

Tennessee Water streams in the urbanized area. If any are designated in the future, buffers will be required as specified in the applicable TDEC permit for such streams.

104. Regulated land disturbing activities. (1) Except as provided in sections 104(2) and (3), it shall be unlawful for any person to engage in any land disturbing activity on any development, construction, or renovation activity involving at least one (1) acre or less than one (1) acre if that construction activity is part of a larger common plan of development or sale that has/would disturb one (1) acre or more without submitting and obtaining approval of a drainage and sedimentation plan as detailed in sections 106 through 115 of this chapter, and being issued a grading permit. Exceptions are as stated in (2) and (3) below.

(2) Any person who owns, occupies and operates private agriculture or forestlands shall not be deemed to be in violation of this chapter of land disturbing activities, which result from the normal functioning of these lands, however, the stormwater manager has the authority to require best practices erosion and sedimentation control measures if pollution and run-off problems are evident.

(3) Any state or federal agency not under the regulatory authority of Hawkins County for stormwater management, erosion and sedimentation control.

105. Permit required for any land disturbing activity. Any land disturbing activity, as defined, shall require a grading permit that must be issued prior to the commencement of any work. Grading permits for land disturbing activities will be issued only upon the owner/developer/representative meeting requirements outlined in §§ 104 through 115 of this chapter, which includes obtaining approval of a drainage and sedimentation control plan. by the Planning Commission.

~~106. Grading, vegetation, drainage, and erosion and sedimentation control plans required.~~ A grading, vegetation, drainage, and erosion and sedimentation control plan, for convenience defined in section 103 as a Drainage and Sedimentation Control Plan (DSCP), shall be required for all:

(1) Developments, subdivisions, or construction activities involving:

(a) one or more acres; or

(b) Less than one (1) acre if that construction activity is part of a larger common plan of development or sale that has/would disturb one (1) acre or more, except as exempted in sections 104(2) and (3) of this chapter.

(2) If necessary to protect the health and safety of the people, the stormwater manager and/or planning commission may, at its discretion, require a drainage and sedimentation control plan for any development or renovation under one (1) acre.

(3) All DSCPs shall contain specific remediation measures to prevent erosion, sedimentation, and other debris runoff, contamination by other pollutant and to meet approved standards as outline in articles 109 and 110. Plans shall include provisions for the defined design

storm at a minimum.

107. Plan requirements. The drainage and sediment control plan shall be prepared and designed and certified by an engineer and/or landscape architect licensed in the State of Tennessee. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and the potential for off-site damage. The plan shall be a 1 = 100 or smaller scale, topographic base map of the site which extends a minimum of five hundred feet (500') beyond the limits of the proposed development and includes at least the following:

(1) Project description. Briefly describe the intended project and proposed land disturbing activity, including number of units and structures to be constructed and infrastructure required.

(2) Contour intervals of five (5) feet or less showing present conditions and proposed contours resulting from land disturbing activity.

(3) All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or flood plains.

(4) Existing land cover.

(5) Approximate limits of proposed clearing, grading and filling.

(6) Description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.

(7) Location, size and layout of proposed stormwater and sedimentation control improvements.

(8) Proposed drainage network. The plan shall illustrate the proposed means for transporting all stormwater from its point of origin, through the site and to an adequate outfall.

(9) Proposed drain tile or waterway sizes and plan and profile views of all proposed drainage structures, including ditches and swales.

(10) Approximate flows leaving site after construction and incorporating water runoff mitigation measures. The evaluation must include projected effects on property adjoining and downstream of the site and on existing drainage facilities and systems. The hydraulic calculations necessary to ensure adequately sized stormwater management structures and BMPs used must also be included.

(11) The projected sequence of work represented by the grading, drainage and erosion and sedimentation control plans as related to other major items of construction.

(12) Specific remediation measures to prevent erosion and sedimentation runoff, contamination by other pollutants and to meet approved standards as outlined in sections 109 and 110 of this Resolution. Plans shall include detailed drawings for all control measures used; stabilization measures including vegetation and non-vegetative 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.

(13) Specific details for the construction of the entrance to the site for controlling erosion and road access points and for eliminating or keeping mud, sediment, and debris on county streets and public ways at a level acceptable to the stormwater manager and/or road . Mud, sediment, and debris brought onto streets and public ways must be removed by the end of the day by machine, broom or shovel to the satisfaction of the stormwater manager and/or road commissioner. Failure to remove said sediment, mud or debris shall be deemed a violation of this chapter.

(14) Proposed stormwater management facilities. The location, size and layout of all proposed stormwater and layout of all stormwater management structures, including retention/detention facilities shall be illustrated on the plan. Facilities which are to be permanent must be identified as such. These facilities must be designed to meet or exceed the standards set forth in section 109 and as required by section 108. Engineering calculations for sizing each facility must be provided. A qualified engineer registered in the State of Tennessee must seal the plans and calculations pertaining to permanent stormwater management facilities.

(15) Proposed structures. Location (to the extent possible) and identification of any proposed additional buildings, structures or development on the site.

(16) Design storm. The plan must be designed to control storm runoff from a two (2) year twenty-four (24) hour event except for discharges to Exceptional Tennessee Waters and/or unavailable parameter waters which must be designed for the five (5) year twenty-four (24) hour event.

108. Plan must contain measures to meet approved standards. The Drainage and Sedimentation Control Plan shall contain measures that will ensure development, construction or site work will meet or exceed the following standards:

(1) The development fits within the topography and soil conditions in a manner that allows stormwater and erosion and sedimentation control measures to be implemented in a manner satisfactory to the Hawkins County Planning Commission. Development shall be accomplished so as to minimize adverse effects upon the natural or existing topography and soil conditions and to minimize the potential for erosion.

(2) Plans for development and construction shall minimize cut and fill operations. Construction and development plans calling for excessive cutting and filling may be refused a permit by Hawkins County if it is determined that the land use could be supported with less alteration of the natural terrain.

(3) During development and construction, adequate protective measures shall be

provided to minimize damage from surface water to the cut face of excavations or the sloping surfaces of fills. Fills shall not encroach upon natural water courses, their flood plains; or constructed channels in a manner so as to adversely affect other properties.

(4) Pre-construction vegetation ground cover shall not be removed, destroyed or disturbed more than twenty (20) days prior to grading or earth moving. No work shall occur until perimeter sedimentation and erosion control devices are in place and inspection/approval by the County Stormwater Manager.

(5) Developers shall be responsible upon completion of land disturbing activities to leave slopes and developed or graded areas so that they will not erode. Such methods include, but are not limited to, re-vegetation, mulching, rip-rapping or gunniting, and retaining walls. Bank cuts and grades exceeding a 2 to 1 slope may be required to use special stabilization measures such as matting, hyroseeding, retaining walls, etc. Regardless of the method used, the objective is to leave the site as erosion and maintenance free as is practical.

(6) Provisions are to be implemented that accommodate any increase in stormwater run-off generated by the development in a manner in which the existing levels of run-off are not increased during and following development and construction. Hydraulic calculations necessary to make accurate determinations will be based at a minimum on a two (2) year storm 24 hour storm event. The Planning Commission may require designs based on larger storm events on a case-by-case basis. A combination of storage and controlled release of stormwater run-off shall be required for all development and construction.

(7) Discharges from sedimentation basins or traps must be through piping, liners, rip-rap or properly grassed channels so that the discharge does not cause erosion.

(8) All grading, vegetation, drainage, stormwater, erosion and sedimentation control mitigation measures shall conform to any or all Best Management Practices approved and revised periodically by the Hawkins County Board of Commissioners.

(9) Sedimentation basins (debris basins, desalting basins, or silt traps) and other drainage and sedimentation control measures shall be installed in conjunction with initial work and must be in place and functional prior to the initial grading operations. These measures must be maintained throughout the development process. Sediment basins and/or silt traps may be temporary, but shall not be removed without the approval of the Stormwater Manager or designee.

(10) For an outfall in a drainage area of a total of 10 or more acres, a temporary (or permanent) sediment basin that provides storage for a calculated volume of runoff from a two (2) year, twenty-four (24) hour storm and runoff from each acre drained, or equivalent control measures, shall be provided until final stabilization of the site. Where an equivalent control measure is substituted for a sediment retention basin, the equivalency must be justified to Planning Commission. Runoff from any undisturbed acreage shall be diverted around the disturbed area and the sediment basin. Diverted runoff can be omitted from the volume calculation. Sediment storage expected from the disturbed area must be included and a marker installed signifying the need for cleanout of the basin.

(11) Damage to vegetation on stream banks or waterways (those not regulated in other sections of this Resolution) shall be minimized within thirty feet of each bank, except as necessary for the installation of utilities, development of roads, or construction of retention ponds and related drainage improvements.

(12) Land shall be developed to the extent possible in increments of workable size that can be completed in a single construction season (projects of fifty acres or more shall be developed

such that no more than fifty acres are exposed at any time unless specifically approved by the Planning Commission to expose more at one time). Erosion and sedimentation control measures shall be coordinated with the sequence of grading development and construction operations. Control measures such as berms, interceptor ditches, terraces, and sediment and silt traps shall be put into effect prior to any other stage of development.

(13) Permanent vegetation shall be installed on the construction site as soon as utilities are in place and final grades are achieved. However, without prior approval of an alternate plan by the Planning Commission, permanent or temporary soil stabilization must be applied to disturbed areas within seven (7) days from substantial completion of grading and where disturbed areas will remain unfinished for more than fourteen calendar days.

(14) Retention facilities and drainage structures shall, where possible, use natural topography and natural vegetation. In lieu thereof, these structures shall have planted trees and vegetation such as shrubs and permanent ground cover on their borders. Plant varieties shall be those sustainable in a drainage way environment or as may be outlined in Best Management Practices. Woody material, such as trees, shall be kept from encroaching on the dam. Utilities shall not be constructed through the stormwater control device and must be accessible without disturbing the device.

(15) Require construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter and sanitary waste at the construction site that may cause adverse impacts to water quality.

(16) In many situations, retention facilities and drainage structures need to be fenced in order to protect public safety. The Planning Commission may require fencing for any basin or structure. When the Planning Commission requires fencing, the following specifications apply. Alternate fencing plans may be considered when requested by the developer, residents, or if the Planning Commission feels some other form of fencing is more appropriate for the site.

- (a) A minimum height of six feet.
- (b) Line Post must be 1 7/8" diameter, 16 gauge
- (c) Fence must be chained link of a minimum of 9 gauge or approved alternate.
- (d) A lockable access gate of a minimum width of 12 feet must be provided to

allow access by equipment and machinery as needed for maintenance.

(17) Drainage and Sedimentation Control Plans must meet minimum requirements established in Tennessee Code Annotated as follows:

- (a) Name of applicant
- (b) Business or residence address of applicant.
- (c) Name and address of owner of property involved in activity
- (d) Address and legal description of property, and names of adjoining property

owners.

(e) Name(s) and address(es) of contractor(s), if different from applicant, and any subcontractor(s) who shall implement the Drainage and Sediment Control Plan.

(f) A brief description of the nature, extent, and purpose of the land disturbing activity.

- (g) Proposed schedule for starting and completing the project.

109. Stormwater design and BMP manual. (a) Adoption. Hawkins County, Tennessee adopts as its stormwater design and Best Management Practices (BMP) manual the latest

edition of the following publications, which are incorporated by reference in this chapter as if fully set out herein:

(i) TDEC Erosion and Sediment Control Manual.

(ii) Standard Specifications for Road and Bridge Construction, Tennessee Department of Highways and Public Works.

(iii) TDEC Permanent Stormwater Design and Guidance Manual.

(b) These manuals include lists of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each stormwater practice. As these manuals are updated, such updates are incorporated into the county's BMP manual unless expressly rejected by a majority vote of a duly constituted meeting of the planning commission. The storm water facilities that are designed, constructed and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards. Other BMPs may be added or deleted upon approval of the planning commission. Site-specific BMP(s) may be approved by the stormwater manager.

110. Additional plan requirements for discharges into exception Tennessee or unavailable parameter waters. None of these waters are in or immediately downstream of the urbanized areas. If such waters are designated in the future, the applicant must include the information required by section 5.3 of the current Tennessee Construction General Permit (TN CGP).

111. Priority construction sites. Priority construction sites are those adjacent to, around, or immediately upstream of waters the state recognizes as unavailable parameter (for siltation or habitat alteration) or as exceptional Tennessee waters. Prior to any grading or other construction activity at such sites, a preconstruction meeting between the construction site owner/operators and stormwater staff will be required at the site.

These sites, if any, will be inspected at least monthly by county staff.

112. Buffers. A Water quality buffer is a setback from the top of a water body's bank of undisturbed vegetation, including trees, shrubs and herbaceous vegetation; enhanced or restored vegetation; or the reestablishment of native vegetation bordering streams, ponds, wetlands, springs, reservoirs or lakes, which exists or is established to protect those water bodies. 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. Buffer width depends on the size of a drainage area and whether or not runoff will impact an unavailable parameter or Exception Tennessee Water stream. Streams or other waters with drainage areas less than 1 square mile will require buffer widths of 30 feet minimum. Steams or other waters with drainage areas greater than 1 square mile will require buffer widths of 60 feet minimum. 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. A determination that prescribed buffer widths cannot be met will not be based solely on the difficulty or cost associated with complying with the prescribed buffer width, but must include multiple criteria such as: type of project, existing land use and physical conditions that preclude use of these practices. Circumstances under which the average widths will be available include but are not limited to:

- a. Projects on narrow width sites. A narrow width site is one which is less than 3 times the prescribed buffer width.
- b. Projects which are on a slope of 12% or greater away from the stream but relatively level within 3 times the prescribed buffer width.
- c. Projects which have streets or similar structures away from the stream.
- d. Projects which have streets or stream crossings which will impact the prescribed buffer.
- e. Existing developed sites which already encroach into the prescribed buffer.

There are no unavailable parameter (for siltation or habitat alternation) or Exceptional Tennessee Water streams in the urbanized area. If any are designated in the future, buffers will be required as specified in the applicable TDEC CGP permit for such streams.

113. Permanent Stormwater Management and Post Construction Facilities.

Permanent stormwater management facilities such as ponds, swales, ditches, etc. will be designed by an engineer or landscape architect licensed in this state. Permanent stormwater management facilities must be clearly marked on the plat of record including a notation that these storm water facilities are permanent, that they must be maintained for the life of the project and may not be filled, altered or otherwise changed unless approved in advance by the Planning Commission. In the case of residential sub-divisions, these facilities will be jointly owned by all lot owners of the subdivision with the owner of each lot owning an equal share of each such facility. The sub-division restrictions will include a section clearly stating this joint ownership and the responsibilities for landscaping, maintenance, inspection, and easement as specified below. The following applies to these facilities:

- a. As Built Plans. All applicants are required to submit actual as built plans for any permanent structure remaining on-site after final construction is completed. The plan must show the final design specifications for all of these facilities. A final inspection and approval by the County is required before any performance security or bond will be released. The County shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or bond on the completion of various stages of development.

- b. Maintenance agreement. (i) Maintenance agreements will apply to all permanent storm water drainage facilities including but not limited to ditches, swales, ponds, rip-rap and the like.

- (ii) The owner of property to be served by a permanent on-site stormwater management facility must execute an inspection and maintenance agreement that shall operate as a deed

restriction binding on the current property owner and all subsequent property owners.

(iii) The maintenance agreement shall: (A) Assign responsibility for the maintenance and repair of the stormwater facility to the owner of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.

(B) Provide for an inspection by the property owner at the property owner's expense upon direction of the stormwater manager for the purpose of documenting maintenance and repair needs and ensure compliance with the purpose and requirements of this Resolution. The property owner will arrange for this inspection to be conducted by a registered professional engineer licensed to practice in the State of Tennessee who will submit a sealed report of the inspection to the stormwater manager. The maintenance agreement shall also grant permission to the county 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, tree 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 owner shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the BMP manual. The owner/operator shall provide the County verification of required maintenance within 30 days of being requested to do so.

(D) Provide that if the property is not maintained or repaired within 30 days of notification by Hawkins County, Tennessee then Hawkins County may perform the maintenance and repair at its expense, and bill the same to the property owner. (In the case of sub-divisions, each lot owner will be assessed a proportionate share of the cost.) The maintenance agreement shall also provide that the County's cost of performing the maintenance shall be a lien against the property if not paid within 30 days of billing.

(E) Maintenance easement. The applicant must ensure Hawkins County employees or contractors access to the site for the purpose of inspection and repair by securing all the maintenance easements needed. These easements must be binding on the current property owner and all subsequent owners of the property and must be properly recorded in the land record.

iv. The county shall have the discretion to accept the dedication of any existing or future stormwater management facility, provided such facility meets the requirements of this chapter and includes adequate and perpetual access and sufficient areas, by easement or otherwise, for inspection and regular maintenance. Any stormwater facility accepted by the county must also meet the county's construction standards and any other standards and specifications that apply to the particular stormwater facility in question.

114. Plan developed at owner's/developer's expense. Unless specifically approved by the Board of Commissioners of Hawkins County, all drainage and sedimentation control plans shall be developed and presented at the expense of the owner/developer.

115. Plan submitted to Stormwater Manager and/or its designee. Five (5) copies of the drainage and sedimentation control plan shall be submitted directly to the

Stormwater Manager and/or its designee at least thirty (30) days prior to consideration. Any insufficiencies, violations noted or comments will be directed back to the applicant/developer. The plan will then be revised as required prior to being presented to the Planning Commission.

116. Re-submittal of DSCP.

(1) The owner/developer shall be required to re-submit pertinent sections of the DSCP under the following circumstances:

(a) Whenever there is a change in the scope of the project, which would be expected to have a significant effect on the discharge of pollutants to the waters of the state and which have not been otherwise addressed in the DSCP information previously submitted (e.g. The size of the project changes to include grading of acreage not previously shown).

(b) Whenever inspections or investigations by site operators, local, state, or federal officials/inspectors indicate the control(s) designed/constructed is/are proving ineffective in eliminating or significantly minimizing pollutants.

(c) Whenever the owner/developer changes the design of the project to include adding or reducing the number, changing the size of or of introducing new control devices. (Note: minor changes as determined by the county engineer and/or stormwater manager may be exempt from this requirement.)

(2) The stormwater manager will determine how much of the DCSP needs to be re-submitted. The planning commission will consider appeals based on information submitted at least three (3) working days before regular or called meetings.

(3) Re-Submittal will be IAW paragraphs 107--115 of this section.

117. Speedy review of plan. (1) The Planning Commission shall review drainage and sedimentation control plans as soon as possible while still allowing for a thorough evaluation of the problems and mitigation measures identified and addressed. The planning commission will take final action on plans submitted no later than sixty (60) days after the initial consideration date by the planning commission. The sixty (60) days may be extended when there is a holiday or an unexpected interceding event that would close county offices and thus affect the normal computation of the sixty (60) day period, in which case the plan shall be approved or disapproved after the interrupted sixty (60) day period at the next regularly scheduled meeting of the commission.

(2) The applicant may waive the time requirement in this section and consent to an extension or extensions of the applicable time period.

(3) In this regard, road frontage and similar plans which do not require or

minimally require excavation or underground utility construction submitted fifteen (15) or more days prior to a regular planning commission meeting, shall be placed on the planning commission agenda for the next scheduled meeting for initial consideration. Plans which require new streets and/or major underground utility construction shall be submitted at least thirty (30) days prior to a planning commission date to be considered at the next meeting and shall contain all the information required in the preceding sections. If not complete, the plan may be returned with an explanation and not considered until resubmitted with correction(s) at least thirty (30) days before a regular planning commission meeting date. Complete plans resubmitted with correction(s) less than thirty (30) days before a regular planning commission meeting date, will be placed on the planning commission agenda at the second following regular meeting date for initial consideration (if staff review is completed in time for the next meeting, the plan may be placed on the agenda for that meeting). Note that the planning commission meets regularly once a month.

118. Grading permit and bond. Following approval of the drainage and sedimentation control plan by the planning commission, a grading permit shall be obtained from the stormwater manager. No grading permit issued until a Contractor Performance Bond, letter of credit or cash is posted in amount determined to be reasonable by the Planning Commission. The guarantee instrument may not be higher than an amount equal to the estimated cost of the improvements plus ten percent contingency funds, and said guarantee instrument shall only be released by Hawkins County and/or its designee following completion of construction and acceptance of the grading vegetation, drainage, and erosion and sedimentation control measures. The guarantee instrument shall be made out to Hawkins County, and if issued in conjunction with a subdivision plan, shall include the cost of paving, landscaping, and utilities including street lights. If it appears that the Drainage and Sedimentation Plan activities approved by the Planning Commission will not be implemented within a twelve (12) month period, the Planning Commission, at its discretion after the Notice of Non Compliance has been properly issued as outlined in Section 116 of this Resolution and the Developer has failed to comply, may cash said guarantee instrument to complete all of the improvements approved or any portion of the Drainage and Sedimentation Control Plan activities it deems necessary to protect the health and safety of residents and to protect the health and safety of residents and to protect the quality of local waters. Upon the posting of the guarantee instrument, the Developer must sign and have notarized and approved a certification granting permission for any Drainage and Sedimentation Control Plan activities, and any landscaping, paving and utility improvements also approved, to be made on the property in case of default.

119. Stormwater Manager and/or designee may require additional protective measures. The stormwater manager and/or the county designee have the authority at their discretion to require ground cover or other remediation measures preventing stormwater, erosion and sediment run-off, if either determines after construction begins that the plan and/or implementation schedule approved by the planning commission does not adequately provide the protection intended in the Resolution and in the approval issued by the Commission. Additional protective measures required by the stormwater manager and/or the county

designee that fall under the authority of the planning commission are subject to appeal under the procedures outlined in Section 135 of this Resolution.

120. Retention/detention facilities and drainage structures maintained. All on-site retention basins and drainage structures shall be properly maintained by the owner/developer during all phases of construction and development so that they do not become a nuisance. Nuisance conditions shall include improper storage resulting in uncontrolled runoff and overflow; stagnant water with concomitant algae growth, insect breeding, and odors; discarded debris; and safety hazards created by the facilities operation. The Stormwater Manager has the responsibility to see that the retention basin is properly maintained and operational. The developer shall provide the necessary permanent easements to provide Hawkins County personnel access to the retention facilities and drainage structures for periodic inspection. A right-of-way to conduct such inspections shall be expressly reserved in the permit.

121. Improperly maintained retention/detention facilities and drainage structures a violation. The stormwater manager and/or county designee shall periodically monitor and inspect the care, maintenance and operation of retention facilities and drainage structures during and after construction and development. Facilities found to be a nuisance are in violation of this Resolution and are subject to fines of fifty dollars (\$50.00) per day with each additional day considered a separate violation. Civil penalties up to the maximum extent specified by Tennessee Code may also be imposed.

122. County may take ownership of retention facilities and drainage structures. The Hawkins County Commission shall have the authority to accept or take ownership of retention facilities and drainage structures on behalf of the county provided that the Commission feels the public interest is best served by the county providing on-going responsibility for maintenance and upkeep. In such cases, approval of the transfer of ownership shall only occur after the planning commission and the County Commission have received an inspection report from the stormwater manager inspector, with the possible technical assistance of the contract engineer and/or soil conservationist, that certifies said devices have been properly constructed and landscaped, are operating effectively, and appropriate safety and protective measures have been implemented or constructed. Transfer of ownership to the county shall occur at or near the completion of the subdivision or development and the developer must provide fee simple title to the property on which the retention/detention basin or drainage structure is located and/or any necessary easements allowing Hawkins County access to the facilities for routine maintenance and care.

123. Technical assistance. Through a memorandum of understanding with Hawkins County, the Hawkins County Soil Conservation District staff and the Hawkins County extension agent are available for consultation and advice concerning stormwater management and erosion and sedimentation problems to all persons planning to develop land within the urbanized area of the county. The Tennessee Department of Environment and Conservation (TDEC) staff may also be consulted. The planning commission and

stormwater manager will use these consultants as needed to review drainage and sedimentation control plans prior to approval and provide assistance to the stormwater manager with inspections.

124. Stormwater Manager and/or designee responsible for providing safeguards in projects less than one (1) acre. Projects undertaken within the urbanized area of Hawkins County that are not subject to review and approval of the Planning Commission shall fall under the responsibility of the Stormwater Manager and/or the designee to see that the measures required in this Resolution to protect the health and safety of the people and to protect the quality of surface waters are carried out as needed. The stormwater manager shall require reasonable drainage, erosion and sedimentation control measures as part of the grading permit process outlined in § 105. Under no conditions shall the stormwater manager or designee allow silt or sedimentation to enter drainage ways or adjoining properties or allow stormwater flows to adversely impact adjoining properties. Denuded areas, cuts and slopes shall be properly covered within the same schedule as directed in section 113b of this Resolution.

125. Existing developed properties with drainage, erosion and sediment concerns. Properties of any size within the unincorporated urban areas of the County that have been developed or in which land disturbing activities have previously been undertaken, are subject to the following requirements:

- (1) Denuded areas still existing must be covered as specified in BMP with appropriate vegetation and /or mulch.
- (2) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.
- (3) Drainage ways shall be properly covered in vegetation or secured with stones, etc. to prevent erosion.
- (4) Junk, rubbish, etc. shall be cleared of drainage ways to help minimize possible contamination of stormwater run-off.
- (5) Stormwater run-off in commercial areas, office or medical facilities and multi-family residences of three (3) or more units shall be controlled to the extent reasonable to prevent pollution of local waters. Such control measures shall include, but not be limited to, the following:
 - (a) Oil skimmer/grit collector structure. These structures are designed to skim off floatables out of parking lots and other impervious surfaces, and allow solids of debris and sediment to settle before being discharged in a local waterway.
 - (b) Retention basins.
 - (c) Planting and/or sowing of vegetation.
 - (d) Rip-rapping, mulching, and other similar erosion control measures associated with local drainage ways.

126. Improvements required in existing development normally at owner's expense. Drainage and sediment control measures required in existing developed properties shall normally be undertaken at the property or business owner's expense. The Hawkins County Board of County Commissioners, however, at its discretion in circumstances in which Board members feel the county's participation is essential to protecting the health and safety of residents and the water quality of Hawkins County's drainage ways, may approve cost sharing needed drainage and sedimentation control measures.

127. County may take responsibility for existing retention facilities and drainage structures. The Hawkins County Board of County Commissioners may, on behalf of the county, take responsibility for existing retention facilities and drainage structures if the Planning Commission so determines that the general public is better served when said facilities are under the long-term maintenance responsibility of the county. Facilities considered shall be accepted as outlined in Section 122 of this Resolution. The Planning Commission may also recommend to the Hawkins County board of County Commissioners that the County participate in making certain improvements to existing facilities in addition to accepting responsibility for their long-term maintenance and care if the commission feels said improvements are in the best interest of the general public.

128. Improvements needed at existing locations determined by the stormwater manager and/or designee. Recommendations may come from the stormwater manager, soil conservation service, the agricultural extension office or other qualified personnel. Recommendations shall be:

- (1) Provided in writing to the property/business owner.
- (2) Detailed as to specific actions required and why these actions are necessary.
- (3) Made with a reasonable period of time for implementation.

129. Improvements required with existing developments subject to appeal. Improvements required by the stormwater manager and/or designee as outlined in this Resolution are subject to appeal by the property/business owners to the Planning Commission as specified in § 133.

130. Illicit discharges. (1) Scope. This section shall apply to any illegal disposal including dumping and all water generated on developed or undeveloped land entering the county's separate storm sewer system.

(2) Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater including contamination of stormwater runoff from hot spots. The commencement, conduct or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited except as described as follows:

- (a) Uncontaminated discharges from the following sources:

(a) Oil skimmer/grit collector structure. These structures are designed to skim off floatables out of parking lots and other impervious surfaces, and allow solids of debris and sediment to settle before being discharged in a local waterway.

(b) Retention basins.

(c) Planting and/or sowing of vegetation.

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- (a) Uncontaminated discharges from the following sources:
 - (i) Water line flushing or other potable water sources;
 - (ii) Landscape irrigation or lawn watering with potable water;
 - (iii) Diverted stream flows;
 - (iv) Rising ground water;
 - (v) Groundwater infiltration to county drains;
 - (vi) Pumped groundwater;
 - (vii) Foundation or footing drains;
 - (viii) Crawl space pumps;
 - (ix) Air conditioning condensation;
 - (x) Springs and irrigation water;
 - (xi) Individual residential car washing;
 - (xii) Natural riparian habitat or wet-land flows;
 - (xiii) Swimming pools (if de-chlorinated typically less than one (1) PPM chlorine)
 - (xiv) Fire fighting activities; and
 - (xv) Any other uncontaminated water source.
- (b) Discharges specified in writing by the county as being necessary to protect public health and safety:
- (c) Dye testing is an allowable discharge if the county has so specified in writing.

(3) Prohibition of illicit connections. (a) The construction, use, maintenance or continued existence of illicit connections to the separate municipal storm sewer system is prohibited. 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. In addition, a person is considered to be in violation of this Resolution if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

(4) Suspension of MS4 Access.

a. Suspension due to Illicit Discharges in Emergency situations. Hawkins County may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop any actual or threatened discharge which presents or may present imminent and substantial danger to the environment, health or welfare of persons or to the MS4 or Waters of the State. If the violator fails to

comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the State, or to minimize danger to persons.

b. **Suspension due to Detection of Illicit Discharge.** Any person discharging to the MS4 in violation of this Resolution may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Stormwater Manager shall notify a violator of the proposed termination of its MS4 access. The violator may petition the Stormwater Manager for a reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the Stormwater Manager.

(5) **Industrial or Construction Activity Discharges.** Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provision of said permit and/or this Resolution. Proof of said permit may be required by Hawkins County prior to allowing a discharge to the MS4.

(6) **Monitoring of Discharges.** This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity. Hawkins County will be granted assess as follows:

(a) Hawkins County shall be permitted to enter and inspect facilities subject to regulation under this Resolution as often as may be necessary to determine compliance with this Resolution. If a discharger has security measures in force that require proper identification and clearance before entry in/onto its premises, the discharger shall make the necessary arrangements to allow access of Hawkins County representatives.

(b) Facility operators shall allow Hawkins County ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater and the performance of additional duties as defined by State and Federal law.

(c) Hawkins County shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Stormwater Manager to conduct monitoring and/or sampling of the facility's stormwater discharge.

(d) Hawkins County has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater quantity and quality shall be calibrated to ensure their accuracy.

(e) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of Hawkins County and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(f) Unreasonable delays in Hawkins County access to a permitted facility is

a violation of this Resolution. A person who is the operator of a stormwater facility with an NPDES permit to discharge stormwater associated with an industrial activity commits an offense if the person denies the Stormwater Manager reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Resolution.

(g). If Hawkins County has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this Resolution, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Resolution or any order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Stormwater Manager may seek issuance of a search warrant from any court of competent jurisdiction.

(7) Hawkins County will identify BMPs for any activity, operation or facility that may cause or contribute to pollution or contamination of stormwater, the storm drain system or Waters of the State. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourse through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMPs necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section.

(8) Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris and other obstacles that would pollute, contaminate or significantly retard the flow of waer through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function or physical integrity of the watercourse.

(9) Notification of spills. Notwithstanding other requirements of/law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into stormwater, the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the county in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the county within three (3) business days of the telephone notice. Facility operators shall allow Hawkins County ready access to all parts of the premises for the

purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater and the performance of any additional duties as defined by State and/or Federal law.

131. Monitoring, reports, and inspections. The stormwater manager or designee, with the possible assistance of the soil conservationist and/or the county extension agent, shall make periodic inspections of the land disturbing activities, the stormwater management system installations and/or other area for illicit discharges, and other activities requiring a grading permit to ensure compliance with the approved plan and Hawkins Counties best management practices. Inspections will evaluate whether the measures required in the drainage and sedimentation control plan and/or grading permit and undertaken by the developer are effective in controlling erosion. The right of entry to conduct such inspections shall be expressly reserved in the permit. If the stormwater manager and/or designee determines that the permit holder has failed to comply with plan approval, the following procedures shall apply:

(1) A notice from the stormwater manager and/or designee shall be served on the permit holder either by registered or certified mail, delivered by hand to the permit holder or an agent or employee of the permitted supervising the activities, or by posting the notice at the work site in a visible location, that the permit holder is in non-compliance.

(2) The notice of non-compliance shall specify the measures needed to comply and shall specify the time within which such corrective measures shall be completed. The stormwater manager or designee shall require a reasonable period of time for the permittee to implement measures bringing the project into compliance; however, if it is determined by the stormwater manager or designee that health and safety factors or the damage resulting from non-compliance is extremely severe, immediate action may be required.

(3) If the permit holder fails to comply within the time specified, the permit may be subject to revocation. In addition, the permittee shall be deemed to be in violation of this Resolution and thus shall be subject to the penalties provided in this Resolution.

(4) In conjunction with the issuance of a notice of non-compliance or subsequent to the permittee not completing the corrective measures directed in the time period required, the stormwater manager or designee may issue an order requiring all or part of the land disturbing activities on the site be stopped. The Stop Work Order may be issued with or as part of the Notice of Non-Compliance, or may be delivered separately in the same manner as directed above.

132. Plan construction acceptance and bond release. Drainage and sedimentation control plan activities must be inspected and accepted by the

stormwater manager or designee. If within a commercial or subdivision development, streets, sidewalks, curbs and alleys, landscaping, street lighting, water, sewer, and any installation of power, telephone, cable, and gas utilities must be approved and accepted by the appropriate official. All monitoring and regulatory authorities shall complete an approval and acceptance form before the Hawkins County releases the associated performance bond. Hawkins County and/or its designee will sign a release on the approval and acceptance form as soon as all of the project criteria have been satisfied and approved.

133. Appeal of administrative action. Actions taken by the stormwater manager or designee as authorized in this Resolution are subject to review by the Planning Commission provided an appeal is filed in writing with the chairman of the planning commission within thirty (30) days from the date any written or verbal decision has been made which the developer feels adversely affects his/her rights, duties or privileges to engage in the land disturbing activity and/or associated development proposed. Drainage and sediment mitigation actions required by the stormwater manager or designee with existing properties or developments are also subject to appeal to the Planning Commission provided that appeals are made in writing, within thirty (30) days of receiving formal notification to the commission chairman citing the specific reasons(s) the activity or activities required present a hardship and cannot be implemented.

134. County clean up resulting from violations at developers/owners expense. County staff is authorized to take remedial actions to prevent, clean up, repair or otherwise correct situations in which water, sediment, rock, vegetation, etc., ends up on public streets, streams and/or rights-of-way resulting from violations of this Resolution; where necessary drainage, erosion and sedimentation control measures have not been properly implemented. In such cases, the cost of labor, equipment, materials and any sub-contract charges used will be charged to the developer/owner in addition and an administrative/overhead charge of not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00) per incident. The county will invoice the developer/owner directly, and payment shall be received within fourteen (14) days. Failure to pay for remedial actions taken by the county under this section may result in the county attorney filing a lien against the property involved in the action.

135. Pentalities enforcement. (1) Remedies nonexclusive. The remedies provided for in this chapter are not exclusive and the designated enforcement officer may take any, all or any combination of these actions against a noncompliant owner. The designated enforcement officer is empowered to take more than one (1) enforcement action against any noncompliant owner that is in violation.

(2) Adoption of enforcement response plan. An enforcement

response plan, including a schedule of civil penalties which may be assessed for certain specific violations or categories of violations, is as established at appendix A. Any civil penalty assessed to a violator pursuant to this section may be in addition to any other penalty assessed by a state or federal authority.

(3) Show cause hearing. An owner that has been issued an assessment or order under this chapter may submit a written request to appear before the designated enforcement officer and show cause why the proposed enforcement action should not be taken. Notice of hearing shall be served by the designated enforcement officer specifying the time and place for the hearing. The notice of hearing shall be served personally or by certified mail, return receipt requested, at least ten (10) days prior to the hearing. A show cause hearing shall not be a bar against or prerequisite for taking any other action against the owner, but shall be a prerequisite for issuing any administrative order or assessment of civil penalties, except as provided by subsection (7) of this section relating to emergency suspensions.

(4) Appeals process. (a) Except in emergency suspensions pursuant to subsection (7) of this section relating to emergency suspensions, any owner against whom a penalty has been assessed for a violation of this chapter, a permit denied, revoked, suspended, against whom the designated enforcement officer has issued an order or who is otherwise aggrieved by an act of the designated enforcement officer shall have thirty (30) days after having been served with the assessment or order, or after a permit has been denied, revoked or suspended, or such person has been aggrieved to appeal the action by filing with the Chairman of the Planning commission a written petition for appeal setting forth the grounds and reasons for the appeal. The failure to serve the Planning Commission sitting as the administrative appeals board pursuant to section 133 within thirty (30) days with the written petition for appeal is jurisdictional, and if an appeal is not taken within the thirty (30) days the matter shall be final.

(b) Upon receipt of a written petition from an aggrieved owner under this chapter but not less than fifteen (15) days after notice of a matter to be appealed, the recorder shall give the petitioner thirty (30) days' written notice of the time and place of the hearing, but in no case shall such hearing be held more than sixty (60) days from the receipt of the written petition unless the designated enforcement officer and the petitioner agree to a postponement.

(c) An appeal to the Planning Commission sitting as the administrative appeals board pursuant to section 133 shall be a de novo review.

(d) Hearings before the Planning Commission sitting as the administrative appeals board pursuant to section 133 shall be conducted in accordance with the following:

(i) The presence of at least three (3) members of the Planning

Commission sitting as the administrative appeals board pursuant to section 133 shall be necessary to conduct a hearing.

- (ii) A verbatim record of the proceedings shall be taken, together with the findings of fact and conclusions of law. The transcript so recorded shall be made available to any party upon prepayment of a charge adequate to cover the costs of preparation.

(iii) In connection with the hearing, subpoenas shall be issued in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the chancery court shall have jurisdiction, upon application of the Planning Commission sitting as the administrative appeals board pursuant to section 133 or the designated enforcement officer, to issue an order requiring such person to appear and testify or produce evidence as the case may require, and any failure to obey such order of the court may be punished as contempt under law.

(iv) On the basis of the evidence produced at the hearing, the Planning Commission sitting as the administrative appeals board pursuant to section 133 shall make findings of fact and conclusions of law and enter such decisions and orders as in its opinion will best further the purposes of this chapter and shall give written notice of such decisions and orders to the petitioner. The order so issued shall be issued no later than thirty (30) days following the close of the hearing.

- (v) The decision of the Planning Commission sitting as the administrative appeals board pursuant to section 133 shall become final and binding on all parties unless appealed as provided in subsection (11) of this section relating to judicial review.
- (vi) Any person to whom an emergency order is directed pursuant to subsection (7) of this section relating to emergency suspensions shall comply therewith immediately but on petition to the Planning Commission sitting as the administrative appeals board pursuant to section 133 shall be afforded a hearing not later than three (3) working days from the receipt of such petition.
- (e) The following shall not be applicable to emergency suspensions pursuant to subsection (7) of this section relating to emergency suspensions:
 - (i) If a written petition of appeal is filed by an owner, the effective date of the matter properly appealed shall be stayed until a decision is announced by the Planning Commission sitting as the administrative appeals board pursuant to section 133; provided, however, that in no

case shall such a stay exceed a period of ninety (90) days, except as provided in subsection (10) of this section relating to additional stay, from the date of receipt of a written petition to the designated enforcement officer to appeal as set out in this section.

- (ii) If a continuance of a hearing before the Planning Commission sitting as the administrative appeals board pursuant to section 133 is requested by an owner, no additional time shall be added to the limitations of subsection (i) of this subsection.
- (iii) If the Planning Commission sitting as the administrative appeals board pursuant to section 133 is not able, for good cause, to hold a hearing within the sixty (60) day limit, the stay shall be extended by the number of days such period is exceeded.
- (iv) If a continuance is requested by the designated enforcement officer, the time of the stay shall be extended by the same number of days as the continuance.

(5) Civil penalties. (a) The designated enforcement officer may recover reasonable attorney's fees, court costs and other expenses associated with enforcement of this chapter and the cost of any actual damages incurred by the County.

(b) Civil penalties assessed hereunder are intended to be remedial to protect the public health, safety and welfare of the public by protecting the waters of the state and adjoining properties. When a civil penalty is assessed to disgorge undeserved profits, or reimburse the town or a private party for fixing damages caused by the noncompliance by the owner, such penalty may be imposed without regard to whether the owner corrects or remedies the violation. Otherwise, when a civil penalty is assessed against an owner found in violation such assessment should be conditioned on providing the owner time to correct or remedy the violation in which event the penalty shall be suspended pending future compliance. If the owner fails or refuses to remedy the violation, the penalty may be imposed per diem until the violation is corrected or remedied. In determining the amount of the penalty to assess, the designated enforcement officer shall consider the factors listed in enforcement response plan and may consider all relevant circumstances, including but not limited to the extent of harm caused by the violation, the magnitude and duration of the violation, the compliance history of the owner and any other factor provided by law.

(6) Method of assessment for non-compliance. Civil penalties shall be assessed in the following manner:

- (a) The designated enforcement officer may issue an assessment against any owner responsible for the violation;

- (b) Any person against whom an assessment has been issued may secure a review of said assessment by filing with the designated enforcement officer a written petition setting forth the grounds and reasons for their objections and asking for a hearing on the matter before the Planning Commission sitting as the administrative appeals board pursuant to section 133. If a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the owner shall be deemed to have consented to the assessment and it shall become final;
- (c) If any assessment becomes final because of an owner's failure to appeal the county's assessment, the designated enforcement officer may apply to the appropriate court for a judgment and seek execution of said judgment, and the court in such proceedings shall treat a failure to appeal such assessment as a confession of judgment in the amount of the assessment. Upon final order, if payment is not made, the designated enforcement officer may issue a cease and desist order.
- (d) In assessing a civil penalty, the following factors may be considered:
 - (i) The harm done to the public health or the environment;
 - (ii) Whether the civil penalty imposed will be substantial economic deterrent to the illegal activity;
 - (iii) The economic benefit gained by the violator;
 - (iv) The amount of effort put forth by the violator to remedy this violation;
 - (v) Any unusual or extraordinary enforcement costs incurred by the county;
 - (vi) The amount of penalty established by ordinance or resolution for specific categories of violations; and
 - (vii) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(e) Damages may also include any expenses incurred in investigating and enforcing the requirements of this chapter; removing, correcting and terminating any discharge or connection; and also compensation for any actual damages to the property or personnel of the county caused by the violation, and any reasonable expenses incurred in investigating and enforcing violations of this chapter.

(7) Emergency suspensions. (a) Under this chapter, if the designated enforcement officer finds that an emergency exists imperatively requiring immediate action to protect the public health, safety or welfare; the health of animals, fish or aquatic life, or a public water supply; the designated enforcement officer may, without prior notice, issue an order

reciting the existence of such an emergency and requiring that such action be taken as the designated enforcement officer deems necessary to meet the emergency, including suspension of a permit issued under this chapter.

(b) Any owner notified of a suspension shall immediately eliminate the violation. If an owner fails to immediately comply voluntarily with the suspension order, the designated enforcement officer may take such steps as deemed necessary to remedy the endangerment. The designated enforcement officer may allow the owner to recommence when the owner has demonstrated to the satisfaction of the designated enforcement officer that the period of endangerment has passed.

(c) An owner that is responsible, in whole or in part, for any discharge or connection presenting imminent danger to the public health, safety or welfare; the health of animals, fish or aquatic life, or a public water supply; shall submit a detailed written statement, describing the causes of the harmful discharge or connection and the measures taken to prevent any future occurrence, to the designated enforcement officer prior to the date of any show cause hearing under subsection (3) of this section relating to show cause hearing.

(d) Nothing in this chapter shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(e) Any owner whose permit or operation is suspended pursuant to this section, on petition to the Planning Commission sitting as the administrative appeals board pursuant to section 133, shall be afforded a hearing as soon as possible, but in no case shall such hearing be held later than three (3) working days from the receipt of such a petition by the designated enforcement officer.

(8) Financial assurance. (a) A performance bond which guarantees satisfactory completion of construction work related to stormwater management facilities, channel protection, vegetative buffers and any best management practices shall be required.

(b) Performance bonds shall name the Hawkins County, 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 designated enforcement officer. The actual amount shall be based on submission of plans and estimated construction, installation or potential maintenance and/or remediation expenses.

(c) The recorder may refuse brokers or financial institutions the right to provide a surety bond, cashier's check or letter of credit based on past performance, ratings of the financial institution or other appropriate sources of reference information.

(d) The designated enforcement officer may decline to approve a plan or issue or reissue a permit to any owner who has failed to comply with any section of this chapter, a permit or order issued under this chapter unless such owner first files a satisfactory bond, payable to the recorder or town, or in a sum not to exceed a value determined by the designated enforcement officer to be necessary to achieve consistent compliance.

(9) Injunctive relief. When the designated enforcement officer finds that an owner has violated or continues to violate any section of this chapter, or a permit or order issued under this chapter, the designated enforcement officer may petition the appropriate court, through the town's attorney, for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the permit, order or other requirement imposed by this chapter on activities of the owner. The designated enforcement officer may also seek such other action as is appropriate for legal and equitable relief, including a requirement for the owner to conduct environmental remediation. A petition for injunctive relief shall not be a bar against or a prerequisite for taking any other action against an owner.

(10) Additional stay. The Planning Commission sitting as the administrative appeals board pursuant to section 133 may grant an additional continuance and stay beyond that set out in subsection (4) of this section relating to appeals process upon the request of an owner/operator and upon the posting of an appeal bond payable to the recorder or town in a sum to be determined by the designated enforcement officer as necessary to protect the interests of the town.

(11) Judicial review. The alleged violator may appeal a decision of the Planning Commission sitting as the administrative appeals board pursuant to section 133 pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8.

The violation of any provision of this Resolution shall be punishable by a penalty pursuant to Tennessee law, and more particularly part 11 relating to stormwater management of Tennessee Code Annotated, title 68, chapter 221, § 68-221-1106(a), of not less than fifty dollars (\$50.00) or more than five thousand dollars (\$5,000.00) per day for each day of violations. Each day of violation may constitute a separate violation. This penalty may be determined by application of the enforcement response plan as defined in Appendix A of this Resolution relating to adoption of an enforcement response plan and costs for each separate violation.

136. Legal Status Provisions.

(1) Conflict with Other Resolutions. In case of conflict between this Resolution or any part thereof, and the whole or part of any existing or future resolution of Hawkins County, the most restrictive shall in all cases apply.

(2) Severability. If any provision of this Resolution is held to be unconstitutional or invalid, such unconstitutionally or invalidity shall not affect any remaining provisions which are not of themselves invalid or unconstitutional.

(3) Effective Date. This Resolution shall become effective upon passage and publication, the public welfare requiring it.

(4) Rescind. Upon passage the following resolutions pertaining to the stormwater program are rescinded:

2003-01-03

2003-01-04

2006-10-05

2006-10-06

2008-04-04

2008-04-05

2008-11-05

2012-05-03

Appendix A. Enforcement Response Plan

**STORMWATER
POST CONSTRUCTION
ILLICIT DISCHARGE**

**VIOLATION FEE SCHEDULE
&
STAFF GUIDANCE**

DOCUMENT INTENT

The intent of this document is to provide guidance to county officials in enforcing the stormwater management resolutions. It should be used only as a guide while recognizing that each situation is unique. The provisions of this fee schedule are not mandatory. Actual enforcement procedures should consider any unusual aspects of a violation or condition, as well as special characteristics of an enforcement action, in determining the proper response.

While the purpose is to provide guidance for administration of the stormwater management resolution, it is not intended to limit the judgment and flexibility of the stormwater manager in determining an appropriate response.

Minor infractions may be resolved by a verbal notice, telephone call, or warning letter advising the owner/operator/person of the nature of the violation. Stop Work orders or additional escalation measures such as revoking the permit or withholding plan approval will be considered. If such action fails to generate an adequate response by the owner/operator/person, further enforcement actions as provided by the resolutions may be taken.

Fee Schedule

The following table is a guide as to the amount of the civil penalty or other action to be taken in the event of violations of the stormwater, post-construction and/or illicit discharge resolution or other stormwater regulations or procedures.

TABLE 1

<u>POINT TOTAL (Note 1)</u>	<u>ACTION</u>
1	Written warning
2	Notice of Violation
3	Administrative Order with up to \$50 Penalty
4	Administrative Order with penalty of \$50 - \$300
5	Administrative Order with penalty of \$50 to \$500
6	Administrative Order with penalty of \$50 to \$1000
7	Administrative Order with penalty of \$50 to \$2000
8	Administrative Order with penalty of \$50 to \$3000
9	Administrative Order with penalty of \$50 to \$4000
10	Administrative Order with penalty of \$50 to \$5000

Note 1: Points shall be assessed based on the below "Response Guide for Violation." Table 2

Table 2

Response Guide for Violation

<u>DESCRIPTION OF VIOLATION</u>	<u>INITIAL POINTS</u>	<u>REPEAT VALUE</u>	<u>CUMULATIVE</u>
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EROSION PREVENTION AND SEDIMENT CONTROL

Violation of a single requirement:

Not significant	1	1	Yes
Significant, no harm	2	1	Yes
Significant, causes harm	3	1	Yes

Violation of more than one requirement:

Not significant	2	1	Yes
Significant, no harm	3	1	Yes
Significant, causes harm	4	1	Yes

UNAUTHORIZED DISCHARGES

Illicit Discharges:

Owner unaware of requirement, no harm	1	N/A	No
Owner unaware of requirement, harm	2	N/A	No
Owner aware of requirement, no harm	2	1	Yes
Owner aware of requirement, harm	3	1	Yes

Illicit Connections:

Owner unaware of requirement, no harm	1	N/A	No
Owner unaware of requirement, harm	2	N/A	No
Owner aware of requirement, no harm	2	1	Yes
Owner aware of requirement, harm	3	1	Yes

INSPECTION

Entry denied	2	2	Yes
Inspection Records			
Incomplete	1	2	No
Not available	1	2	No

MAINTENANCE

Failure to properly operate and maintain BMPs	1	1	Yes
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STORMWATER MANAGEMENT

Pre- Construction

Failure to obtain NOC	2	1	No
Failure to obtain grading permit	2	1	No
Failure to provide performance bond (when required)	2	1	No

Post Construction

Failure to provide water quality BMPs	2	2	No
Failure to provide channel protection	2	2	No
Failure to provide downstream impact Analysis	2	2	No
Failure to provide special pollution abatement plan	2	2	No

Explanation of Use of Tables

This guide is based primarily on the use of two tables: "1", and "2". Table "2" indicates how point values are assigned for each violation, considering the severity, duration, degree of harm, and compliance history of the owner. All possible violations may not be listed; however, this does not preclude an appropriate enforcement response.

In Table "1", three columns are associated with each listed violation – the "Initial Points" column, the "Repeat Value" column, and the "Cumulative" column. If no history of violations is noted, the value in the "Initial Points" column may be used in conjunction with Table "2" to assess a typical response to the violation.

If the user has a history of similar violations, the initial point value plus the product of the number of previous

occurrences times the repeat value should be used as shown in the following formula: Total Point Value (TP) = P + (N x R), where:

- P = Initial Point Value for a single violation
- N = Number of previous occurrences
- R = Repeat Value from Table "1"

Should more than one violation be noted at a time, the cumulative column should be consulted. If violations are cumulative in nature, the sum of the individual point values should be used to judge the response. If not, the greatest individual values should be used to judge response, with the documentation for that response, however, noting all violations.

Once a point value is determined, Table "1" should be consulted for recommended responses. Table "1" provides a schedule of appropriate responses based upon the number of "points" determined by Table "2".

Example

An owner violates the terms of the stormwater management resolution. This violation is considered significant and causes harm. Investigation reveals the owner has been cited twice in the past for the same violation: Total Point Value (TP) = P + (N x R). Therefore: TP = 3 + (2 x 1) = 5, where:

- 3 = Points charged for isolated but significant discharge from Table "2"
- 2 = Number of previous occurrences; and
- 1 = Repeat value from Table "2".

Resulting options: Civil injunction or administrative order with up to \$500.00 penalty.

Cease and Desist Order

A civil injunction may be requested at any time, for any violation, if in the opinion of the stormwater manager in consultation with the county attorney, such action is justified, needed or appropriate.

Criminal Action

In cases where criminal acts are suspected by the stormwater manager, after consultation with the county attorney, information shall be gathered and forwarded to the district attorney of Hawkins County for action. Criminal prosecution, if pursued, shall be in addition to other actions authorized by ordinance.

Penalties, Administrative or Civil

The stormwater management resolution authorizes assessment of penalties not to exceed \$5,000 per violation per day. Additionally, the resolution authorizes the stormwater manager to assess a civil penalty for actual damages incurred by the county. Before assessment of any administrative penalty, a show cause hearing must be held with the non-compliant. Before assessment of a civil penalty, the factors listed in section 35(6)(d) of the Stormwater Resolution should be considered.

If a violation results in conditions requiring the expenditure of public funds for mitigation of damages, a penalty shall be assessed in such amount as to offset the public funds so expended. This will in no way reduce or offset the liability of the owner with respect to damages incurred.

Enforcement Responses

The order of precedence for enforcement responses outlined in this guide should not be construed to prevent the stormwater manager from taking a stronger action without first implementing less stringent steps, if in his opinion, a more forceful response is necessary.

A show cause hearing should be held prior to any enforcement action other than a telephone call, warning letter or notice of violation (NOV). The purpose of a show cause hearing is to provide a forum for the owner to present a defense to charges as outlined, or, to obtain additional information.

Documented Phone Calls or Informal Discussions

In the case of the most minor violation of a permit or the ordinance, a telephone call or informal meeting may be sufficient to obtain the desired compliance. Phone calls must be documented by contemporaneous notes. A copy of the notes should be placed in the owner's master file and another copy mailed to the owner.

Likewise, if an informal discussion is held, notes shall be kept summarizing the discussion. Copies of the notes should be distributed to all entities involved. Anyone wishing to take exception to the notes should be required to respond in writing.

Warning Letter

A warning letter is the lowest level of formal response to a violation. It is intended for minor violations which would not cause harm to the environment.

Notice of Violation

A notice of violation (NOV) is an official notification to inform a non-compliant owner of a violation of the stormwater management resolution. Within ten (10) days of receipt of this notice, a written explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the owner to the stormwater manager. Inspection to ensure performance of any corrective actions may be conducted by the stormwater manager at his discretion. Submission of this plan in no way relieves the owner of liability for any violations occurring before or after receipt of the notice of violation.

Administrative Orders

Administrative orders (AO) are enforcement documents which direct owners to perform, or to cease, specific activities. Administrative orders may also invoke a penalty. There are three (3) primary types of administrative orders: consent orders; compliance orders; and cease and desist orders.

Consent orders are entered into between the county and the owner to assure compliance as to specific actions to be taken by the owner to correct non-compliance within a specified time period. The stormwater manager may enter into consent orders, assurances of voluntary compliance or other similar documents establishing an agreement with any owner responsible for noncompliance. Such documents shall include specific action to be taken by the owner to correct the noncompliance within a time period specified in the document. Such documents shall have the same force and effect as orders issued pursuant to Section 14-1635.1.

Compliance orders may be issued when the stormwater manager finds that an owner has violated, or continues to violate, the ordinance or an order issued thereunder. It is similar to a consent order except that the consent of the owner is not implied in its issuance. When the stormwater manager finds that an owner has violated or continues to violate any section of this article, or a permit or order issued under this article, the stormwater manager may issue an order to the owner responsible for the

violation directing that the owner come into compliance within a specified time, and such order may include assessment of a penalty to be paid if the owner does not come into compliance within the time provided. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged offsite. A compliance order does not relieve the owner of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against or a prerequisite for taking any other action against the owner.

Cease and desist orders may be issued when the stormwater manager finds that an owner has violated, or continues to violate, the stormwater management ordinance or order issued thereunder. The order shall require that the owner:

- (a) Comply forthwith; and
- (b) Take such appropriate remedial or preventive action as may be needed or deemed necessary to properly address a continuing or threatened violation, including halting operations and terminating the discharge. Issuance of a cease and desist order shall not be a bar against or a prerequisite for taking any other action against the owner.

Administrative orders contain the following components:

1. Title - The title specifies the type of order being issued (see below), to whom it is being issued, summarizes the purpose of the order, and contains an identification number.
2. Legal Authority - The authority under which the order is issued (the stormwater management ordinance).
3. The Finding of Noncompliance - All violations must be described including the dates, the specific permit and/or ordinance provisions violated, and any damages known and attributable to the violation.
4. Required Activity - All orders should specify the required actions, such as installation of BMPs, additional inspections, appearance at show cause hearings, etc.
5. Milestone Dates for Corrective Actions - When compliance schedules are appropriate, all milestone dates must be established including due dates for required written reports.
6. Supplemental Clauses - The document should contain standard clauses providing that:
 - (a) Compliance with the terms and conditions of the administrative order shall not be construed to relieve the owner of its obligation to comply with applicable state, federal or local law or the permit;
 - (b) Violation of the administrative order itself may subject the owner to additional penalties as set out in the stormwater management ordinance;
 - (c) No provision of the order shall be construed to limit the county's authority to issue supplementary or additional orders, or to take action deemed necessary to implement this program or ordinance;
 - (d) The order shall be binding upon the owner, its officers, directors, agents, employees, successors, assigns, and all persons, firms or corporations acting under, through or on behalf of the owner.

Administrative orders issued as a result of a violation of the stormwater management ordinance shall contain a penalty as determined using Tables "1" and "2" in this document. Administrative orders may also be used to advise an owner of the need to take, or cease, certain actions, and in such case, may or may not be associated with penalties as defined in the Resolution or in this guide.

