

City of

Pigeon Forge

STORMWATER
ORDINANCE



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ORDINANCE NO. 952

AN ORDINANCE TO REPLACE IN ITS ENTIRETY ORDINANCE NUMBER 867 ESTABLISHING STORMWATER MANAGEMENT STANDARDS AND PRACTICES WITHIN THE CITY OF PIGEON FORGE

WHEREAS, the City of Pigeon Forge, Tennessee, desires to protect and enhance the environment in and around the corporate limits of the City of Pigeon Forge; and

WHEREAS, the city desires to fully comply with the National Pollution Discharge Elimination system permit and applicable regulations; and

WHEREAS, it is appropriate for the City to enact stormwater regulations and standards to fully comply with all Federal and State laws in order to benefit the citizens of Pigeon forge, Tennessee.

NOW THEREFORE, Be It Ordained by the Mayor and Board of Commissioners of the City of Pigeon Forge, Tennessee that Ordinance Number 867 is hereby repealed in its entirety and the following is hereby adopted as the Stormwater Ordinance for the City of Pigeon Forge.

MODEL STORMWATER ORDINANCE

Section 1. General Provisions.

- (1). **Purpose.** It is the purpose of this ordinance to:
 - (a) Protect, maintain, and enhance the environment of the City of Pigeon Forge and the public health, safety and the general welfare of the citizens of the city, by controlling discharges of pollutants to the city's stormwater system and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the city.
 - (b) Enable the City of Pigeon Forge to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR §122.26 for stormwater discharges.
 - (c) Allow the City of Pigeon Forge to exercise the powers granted in Tennessee Code Annotated §68-221-1105, which provides that, among other powers municipalities have with respect to stormwater facilities, is the power by ordinance or resolution to:
 - (1) Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the municipality, whether or not owned and operated by the municipality;
 - (2) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;
 - (3) Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality;
 - (4) Review and approve plans and plats for stormwater management in proposed subdivisions or commercial developments;
 - (5) Issue permits for stormwater discharges, or for the construction, alteration, extension, or repair of stormwater facilities;
 - (6) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;
 - (7) Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and
 - (8) Regulate and prohibit discharges into storm water facilities of sanitary, industrial or commercial sewage or waters that have otherwise been contaminated; and

- (9) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private.

- (2). **Administering entity.** The Pigeon Forge Public Works Department Storm Water Technician shall administer the provisions of this ordinance.

- (3) **Right of Entry:** The Authority shall make inspections and investigations, carry on research or take on such other actions as may be necessary to carry out this administration of regulations; enter at all reasonable times upon any property other than dwelling places for the purpose of conducting investigations and studies or enforcing any of the provisions of this Ordinance, pursuant to TCA 69-3-107 (5) and (6).

Section 2. Definitions.

For the purpose of this chapter, the following definitions shall apply: Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive.

Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

- (1) ***Agricultural operations.*** Activities related to the production of goods through the growing of plants and/or animals.
- (2) ***As built plans*** - means drawings depicting conditions as they were actually constructed.
- (3) ***Base flood.*** The flood having a one (1) percent chance of being equaled or exceeded in any given year.
- (4) ***Best management practices - or BMPs*** are physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, that have been approved by the City of Pigeon Forge, and that have been incorporated by reference into this ordinance as if fully set out therein.
- (5) ***Blue line stream.*** Any stream, creek, lake, pond, or other body of water shown as a blue line on a 7.5 minute USGS quadrangle map.
- (6) ***Board of Mayor and City Commissioners (City Council).*** The governing body of the City of Pigeon Forge, Tennessee.
- (7) ***Buffer Zone.*** As used in this ordinance, a strip of undisturbed perennial native vegetation, either original or re-established, that borders streams and rivers, ponds and lakes, wetlands and seeps. Buffer zones are established for the purposes of slowing water runoff, enhancing water infiltration, and minimizing the risk of any nutrients or pollutants from pollutants from leaving the upland area and reaching surface waters.
- (8) ***Channel*** - means a natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.
- (9) ***Clearing*** - Typically refers to the removal of vegetation and disturbance of soil prior to grading or excavation in anticipation of construction activities. Clearing may also cover a wide variety of uses, many of which may not be regulated within the scope of stormwater management.
- (10) ***Community water*** - means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the City of Pigeon Forge.
- (11) ***Common plan of development or sale*** - This term is broadly defined as any announcement or documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, survey markings, etc.) indicating construction activities may occur on a specific plot. A common plan of development or sale identifies a situation in which multiple areas of disturbance are occurring on contiguous areas. This applies because the activities may take place at different times, on different schedules, by different operators.
- (12) ***Contaminant*** - means any physical, chemical, biological, or radiological substance or matter in water.

- (13) **Design storm event** - means a hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a stormwater facility.
- (14) **Discharge** - means dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the municipal separate storm sewer system.
- (15) **Easement** - means an acquired privilege or right of use or enjoyment that a person, party, firm, corporation, municipality or other legal entity has in the land of another.
- (16) **Erosion** - means the removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by anthropogenic activities or effects.
- (17) **Erosion and sediment control plan** - means a written plan (including drawings or other graphic representations) that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.
- (18) **Hotspot** - means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. Hotspots include, but are not limited to: garages, repair shops, junk yards, detailing shops, car wash waste water, restaurants (where grease traps are maintained), commercial properties with large paved parking areas, factories, retail facilities, manufacturing plants, storage lots, maintenance areas, sanitary waste water, effluent from septic tanks and alternative sewer systems, carpet cleaning waste water, laundry waste water/ gray water and household toxics;
- (19) **Illicit connections** - means illegal and/or unauthorized connections to the municipal separate stormwater system whether or not such connections result in discharges into that system.
- (20) **Illicit discharge** - means any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under §3(3).
- (21) **Improved sinkhole** - A natural surface depression that has been altered in order to direct fluids into the hole opening. Improved sinkhole is a type of injection well regulated under the Underground Injection Control (UIC) program. Underground injection constitutes an intentional disposal of waste waters into natural depressions, open fractures, and crevices (such as those commonly associated with weathering limestone).
- (22) **Land disturbing activity** - means any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation.
- (23) **Linear project** - A land disturbance activity as conducted by an underground/ overhead utility or highway department, including but not limited to any cable line or wire for transmission of electrical energy; and conveyance pipeline for transportation of gaseous or liquid substance; any cable line or wire or communications' or any other energy resource transmission ROW or utility infrastructure, e.g., roads and highways. Activities include the construction and installation of these utilities within a corridor. Linear project activities also include the construction of access roads, staging areas, and borrow/spoil sites associated with the linear project. Land disturbance specific to the development of a

residential and/ or commercial subdivision or high-rise structures is not considered a linear project.

- (24) **Maintenance** - means any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater facility.
- (25) **Maintenance agreement** - means a document recorded in the land records that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.
- (26) **Municipal separate storm sewer system (MS4)** means the conveyances owned or operated by the municipality for the collection and transportation of stormwater, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains, or outfalls to community waters or waters of the state.
- (27) **National Pollutant Discharge Elimination System permit - or NPDES permit** means a permit issued pursuant to 33 U.S.C. 1342.
- (28) **Off-site facility** - means a structural BMP located outside the subject property boundary described in the permit application for land development activity.
- (29) **On-site facility** - means a structural BMP located within the subject property boundary described in the permit application for land development activity.
- (30) **Peak flow** - means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.
- (31) **Person** - means any and all persons, natural or artificial, including any individual, firm or association and any municipal or private corporation organized or existing under the laws of this or any other state or country.
- (32) **Planning Commission** – The Pigeon Forge Regional Planning Commission.
- (33) **Priority area** - means hot spot as defined in § 2(18).
- (34) **Quality Assurance Site Assessment** - A documented site inspection to verify the functionality and performance of the SWPPP and for determining if construction, operation and maintenance accurately comply with permit requirements, as presented in the narrative, engineering specifications; maps, plans, drawings; and details for erosion prevention, sediment control and stormwater management.
- (35) **Runoff** - means that portion of the precipitation on a drainage area that is discharged from the area into the municipal separate stormwater system.
- (36) **Sediment** - means 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.
- (37) **Sedimentation** - means soil particles suspended in stormwater that can settle in stream beds and disrupt the natural flow of the stream.
- (38) **Soils Report** - means a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees.

- (39) **Stabilization** - means providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.
- (40) **Steep Slope** - A natural or created slope of 20 % grade or greater. Designers of sites with steep slopes must pay attention to stormwater management in the SWPPP to engineer runoff non-erosively around or over a steep slope. In addition, site managers should focus on erosion prevention on the slope(s) and stabilize the slope(s) as soon as practicable to prevent slope failure and/ or sediment discharges from the project.
- (41) **Stormwater** - means stormwater runoff, snow melt runoff, surface runoff, and street wash waters related to street cleaning or maintenance, infiltration and drainage.
- (42) **Stormwater Authority** The stormwater authority created by ordinance or resolution of a City or County to administer the stormwater management ordinance, and other stormwater rules and regulations adopted by the municipality. It shall also be referred to as Stormwater Management.
- (43) **Stormwater management** - means the programs to maintain quality and quantity of stormwater runoff to pre-development levels.
- (44) **Stormwater management facilities** - means the drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed of.
- (45) **Stormwater management plan** - means the set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMPs, concepts and techniques intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels.
- (46) **Stormwater runoff** - means flow on the surface of the ground, resulting from precipitation.
- (47) **Stormwater Technician** – The storm water technician is the person hired by the City of Pigeon Forge to administer the stormwater management program.
- (48) **Stormwater utility** - means the stormwater utility created by ordinance of the city to administer the stormwater management ordinance, and other stormwater rules and regulations adopted by the municipality.
- (49) **Structural BMPs** - means devices that are constructed to provide control of stormwater runoff.
- (50) **Surface water** - includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other water courses, lakes and reservoirs.
- (51) **Stormwater Pollution Prevention Plan.** (SWPPP) A written plan that includes site map(s) identifying construction/ contractor activities that could cause pollutants in stormwater runoff, and a description of the measures or best management practices to be used to prevent and control pollution from the site.
- (52) **Tennessee Code Annotated (TCA)** – A compilation of the laws of the State of Tennessee.
- (53) **TN Dept of Environment and Conservation (TDEC)**- is the state agency having water pollution control oversight.
- (54) **TDEC Manuals** current Sediment and Erosion Control and Post Construction manuals approved by TDEC for stormwater system design and installation.
- (55) **Turbidity** - The term refers to the cloudiness or haziness of a fluid caused by individual particles (suspended solids) that are generally invisible to the naked eye, similar to smoke in air.

- (56) **Watercourse** - means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.
- (57) **Waters or waters of the state.** Any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through, or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine or effect a junction with natural surface or underground waters.
- (58) **Watershed** - means all the land area that contributes runoff to a particular point along a waterway.
- (59) **Wetlands.** Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted to life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes bogs and similar areas.
- (60) **Wet weather conveyances.** Man-made or natural watercourses including natural watercourses that have been modified by channelization, that flow only in direct response to precipitation runoff in their immediate locality and whose channels are above the groundwater table and which do not support fish or aquatic life and are not suitable for drinking water supplies.

Section 3. Land disturbance permits.

(1). **When required.**

(a) Every person will be required to obtain a land disturbance permit from the Pigeon Forge Public Works Dept. Storm Water Technician in the following cases:

- (1) Land disturbing activity, other than agricultural or forestry management activities, that disturb one (1) or more acres of land;
- (2) Land disturbing activity of less than one (1) acre of land if such activity is part of a larger common plan of development that affects one or more acre of land;
- (3) Land disturbing activity of less than one (1) acre of land, if in the discretion of the Pigeon Forge Public Works Dept. Storm Water Technician such activity poses a unique threat to water, or public health or safety. Projects or developments of less than one acre of total land disturbance may also be required to obtain authorization under this permit if:

(a) The Authority has determined that the stormwater discharge from a site is causing, contributing to or is likely to contribute to a violation of a state water quality violation;

(b) The Authority has determined that a stormwater discharge is, or is likely to be a significant contributor of pollutants to waters of the state, or;

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

(4) The creation and use of borrow pits where material is excavated and relocated offsite, and fill sites where materials or earth is deposited by mechanized methods resulting in an increase elevation or grade;

(5) If the Authority becomes aware that construction activity is ongoing, but is not permitted, the Authority must notify TDEC of this situation by supplying the following information to the Knoxville Environmental Field Office:

(a) Construction project or industrial facility location;

(b) Name of the operator or owner;

(c) Estimated construction project or size or type industrial activity (including SIC code, if known);

(d) Records of communications with the owner or operator regarding

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

(3). **Exemptions.** The following activities are exempt from the permit requirement:

- (a) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
- (b) Existing nursery and agricultural operations conducted as a permitted main or accessory use.
- (c) Agricultural activities
- (d) Any logging activity not part of a major development scheme that is consistent with an approved farm conservation plan or a timber management plan prepared or approved by the appropriate federal or state agency.
- (e) Additions or modifications to existing single family structures.
- (f) The owner or developer whose land disturbing activity has been exempted from requirements for registration shall nevertheless be responsible for otherwise conducting such activity in accordance with the provisions of this Ordinance and other applicable laws including responsibility for controlling erosions and sedimentation. Where individual lots or sections in a subdivision are being developed by different property owners, all earth disturbing activities related to the subdivision shall be covered by the approved storm water pollution prevention plan (SWPPP); such developments are subject to the terms of the requirements therein, including but not limited to: gravel construction entrance/exits, necessary erosion controls, concrete washout restrictions, etc.
- (g) Limitations. The Authority shall not grant land disturbance coverage for discharges into waters that are designated by the Water Quality Control Board as “Outstanding National Resource Waters” (ONRW). An individual permit is required for land disturbance activities and is available from the Tennessee Department of Environment and Conservation.

(4). Application for a land disturbance permit.

- (a) Each application shall include the following:
 - (1) Name of applicant;
 - (2) Business or residence address of applicant;
 - (3) Name, address and telephone number of the owner of the property of record in the office of the assessor of property;
 - (4) Address and legal description of subject property including the tax reference number and parcel number of the subject property;
 - (5) Name, address and telephone number of the contractor and any subcontractor(s) who shall perform the land disturbing activity and who shall implement the erosion and sediment control plan;
 - (6) A statement indicating the nature, extent and purpose of the land disturbing activity including the size of the area for which the permit shall be applicable and a schedule for the starting and completion dates of the land disturbing activity.
 - (7) Where the property includes a sinkhole, the applicant shall obtain from the Tennessee Department of Environment and Conservation appropriate permits.

- (8) The applicant shall obtain from any other state or federal agency any other appropriate environmental permits that pertain to the property. If Aquatic Resource Alteration Permits (ARAP) are required for a site in areas proposed for active construction, the NOC will not be issued until ARAP application(s) are submitted and deemed by TDEC to be complete. The treatment and disposal of wastewater (including, but not limited to sanitary wastewater) generated during and after the construction must also be addressed. The issuance of the NOC may be delayed until adequate wastewater treatment and accompanying permits are issued. The inclusion of any such permits in the application shall not prevent the City from imposing additional development requirements and regulations of the City on the development of property covered by those permits; However, the inclusion of those permits in the application shall not prevent the Pigeon Forge Public Works Dept. Storm Water Technician from imposing additional development requirements and conditions, commensurate with this ordinance, on the development of property covered by those permits.
- (b) Each application shall be accompanied by:
 - (1) A sediment and erosion control plan that meets the criteria set forth by the City of Pigeon Forge Subdivision Regulations and the Public Works Dept. Storm Water Technician
 - (2) A stormwater management plan approved by the City of Pigeon Forge Public Works Dept. Storm Water Technician
 - (3) Each application for a land disturbance permit shall be accompanied by payment of land disturbance permit and other stormwater management fees, which shall be set by ordinance or resolution of Pigeon Forge City Council.

(5). Review and approval of application.

- (a) The Pigeon Forge Public Works Dept. Storm Water Technician within a reasonable amount of time after receipt will review each application for a land disturbance permit to determine its conformance with the provisions of this ordinance. After the review of an application, the Pigeon Forge Public Works Dept. Storm Water Technician shall provide one of the following responses:
 - (1) Approval of the permit application;
 - (2) Conditional Approval of the permit application, subject to such reasonable conditions as may be necessary to secure substantially the objectives of this ordinance, and issue the permit subject to these conditions; or
 - (3) Denial of the permit application, indicating the reason(s) for the denial.

- (b) If the Pigeon Forge Public Works Dept. Storm Water Technician has granted conditional approval of the permit, the applicant shall submit a revised plan that conforms to the conditions established by the Pigeon Forge Public Works Dept. Storm Water Technician. However, the applicant may be allowed to proceed with his land disturbing activity so long as it conforms to conditions established by the Pigeon Forge Public Works Dept. Storm Water Technician.
 - (c) No development plans will be released until the land disturbance permit has been approved.
 - (d) Disclaimer of liability. Neither the submission of a plan under the provisions herein, nor compliance with the provisions of these regulations shall relieve any person from responsibility for damages to any person or property otherwise imposed by law: nor impose any liability upon the City of Pigeon Forge or its representatives for damages to any person or property.
- (6). Permit duration.**
Every land disturbance permit may expire and become null and void if in the judgment of the Public Works Dept. Storm Water Technician substantial work authorized by such permit has not commenced within one hundred eighty (180) calendar days of issuance, or has not been completed within an amount of time deemed reasonable by the Public Works Dept. Storm Water Technician.
- (7). Notice of construction.**
The applicant must notify the Pigeon Forge Public Works Dept. Storm Water Technician at least ten (10) working days in advance of the commencement of construction. Inspections of the stormwater management system construction may be conducted by the Pigeon Forge Public Works Dept. Storm Water Technician.
- (8). Performance bonds.**
- (a) The Pigeon Forge Public Works Dept. Storm Water Technician may, at its discretion, require the submittal of a performance security or performance bond prior to issuance of a permit in order to ensure that the stormwater practices are installed by the permit holder as required by the approved stormwater management plan. The bond provider shall be responsible to keep the bond in effect until such time the bond is released by the City of Pigeon Forge Public Works Dept. Storm Water Technician. In the event the bond provider allows the bond to expire, the bond provider shall be responsible for the cost of completion of the work required by the permit and be responsible for any damages resulting from non-completion of the work. The amount of the installation performance security or performance bond shall be the total estimated construction cost of the structural BMPs approved under the permit plus any reasonably foreseeable additional related costs, e.g., for damages or enforcement. [Or plus a certain percentage of the total estimated costs.] The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan. The applicant shall provide an itemized construction cost estimate complete with unit prices which shall be subject

to acceptance, amendment or rejection by the Pigeon Forge Public Works Dept. Storm Water Technician Alternatively the Pigeon Forge Public Works Dept. Storm Water Technician shall have the right to calculate the cost of construction cost estimates.

- (b) The performance security or performance bond shall be released in full only upon approval of the City of Pigeon Forge Public Works Dept. Storm Water Technician Submission of as-built plans and written certification by a registered professional engineer licensed to practice in Tennessee that the structural BMP has been installed in accordance with the approved plan and other applicable provisions of this ordinance may be required at the discretion of the Forge Public Works Dept. Storm Water Technician The Pigeon Forge Public Works Dept. Storm Water Technician may make a final inspection of the structural BMP to ensure that it is in compliance with the approved plan and the provisions of this ordinance. Provisions for a partial pro-rata release of the performance security or performance bond based on the completion of various development stages may be made at the discretion of the Pigeon Forge Public Works Director Stormwater Technician or his designee.

(9) Transfer of Ownership

- (a) Some construction projects, such as residential or commercial subdivisions and/ or developments or industrial parks are subdivided. Subdivided lots are sometimes sold to new owners prior to completion of construction. The site wide developer/ owner must describe erosion control and sediment prevention measures implemented at those lots. Once the property is sold, the new operator must obtain coverage under this permit.
- (b) If the transfer of ownership is due to foreclosure or a permittee filing for bankruptcy proceedings, the new owner (including but not limited to a lending institution) must obtain permit coverage if the property is inactive, but is not stabilized sufficiently. If the property is sufficiently stabilized permit coverage may not be necessary, unless and until construction activity at the site resumes.

(10) Inspections

- (a) The permit holder shall perform inspections of erosion prevention and sediment control practices on all construction sites as indicated by the current “NPDES Permit for Discharges Associated with Construction Activities” twice weekly and at least 72 hours apart (3.5.8.2). This standard is the same for “priority construction sites”. Based on the results of the inspections, any inadequate control measures or control measures in disrepair shall be replaced or modified, or repaired as necessary, before the next rain event if possible. Inspections should be documented. Quality

assurance of erosion prevention and sediment controls shall be done by performing site assessment at a construction site. The site assessment shall be conducted at each outfall involving drainage totaling 10 acres or more (of disturbed and undisturbed acreage combined) or 5 or more acres if draining to impaired or exceptional quality waters, within 1 month of construction commencing. The site assessment shall be performed by individuals with one or more of the following qualifications:

- (1) A licensed professional engineer or landscape architect;
- (2) A Certified Professional in Erosion and Sediment Control (CPESC); or
- (3) A person that has successfully completed the “Level II Design Principles for Erosion Prevention and Sediment Control for Construction Sites” course.

As a minimum, a site assessment should be performed to verify the installation, functionality and performance of the erosion prevention and sediment control measures described in the SWPPP. The site assessment findings shall be documented and the documentation kept with the SWPPP on site. The site assessment should be performed with the site inspector, and should include a review and update (if applicable) of the SWPPP. Modifications of plans and specifications for any building or structure, including the design of sediment basin or other sediment controls involving structural, hydraulic, hydrologic or other engineering calculations shall be performed by a licensed engineer or landscape architect and stamped and certified in accordance with state law. The site assessment can take the place of one of the twice weekly inspections.

- (b) The Stormwater Authority shall perform inspections on priority construction sites, and other construction sites as warranted by site location and complaints. If the Stormwater Authority finds that the permit holder has failed to properly install, maintain, or use proper structural and/or vegetative erosion and sediment control practices as specified in the erosion and sediment control plan and the post construction design and maintenance plan the permit holder may be subject to a notice of violation order or additional penalties as set forth in Section eight (8) of this ordinance.
- (c) The Stormwater Authority may require an inspection by a registered Engineer licensed in the State of Tennessee, if deemed necessary, for any erosion and sediment control measure or post construction stormwater management facility to ensure they meet the design standards as described in the Construction Site and Post Construction Site plans.
- (d) If the Stormwater Authority determines that significant erosion and/or sedimentation is occurring on a graded site despite approved structural and/or vegetative erosion and sediment control practices, the Stormwater

Authority shall require the permit holder to take additional corrective action to protect the adversely affected area. The additional corrective action required shall be part of an amended erosion and sediment control plan.

- (e) Where sites or portions of construction sites have been temporarily stabilized, or runoff is unlikely due to winter conditions (e.g., site covered with snow or ice) or due to extreme drought, such inspection only has to be conducted one per month until thawing or precipitation results in runoff or construction activity resumes. Inspection requirements do not apply to definable areas that have been finally stabilized.
- (f) Inspections and maintenance for post construction stormwater facilities shall be performed as required in Section five (5) for post construction design and maintenance.

(11) Appeals. Appeals may be made to the Stormwater Appeals Board as outlined in Section 9 of this Ordinance.

Section 4. Stormwater System Design and Management Standards.

- (1) Storm water design or BMP manual.**
 - (a) The City adopts as its storm water design and best management practices (BMP) manual the most recent edition and/or amendment following publications, which are incorporated by reference in this ordinance as is fully set out herein:
 - (1) TDEC Sediment and Erosion Control Manual
 - (2) TDEC Manual for Post Construction
 - (b) This manual includes a list of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each storm water practice. The manual may be updated and expanded from time to time, at the discretion of the governing body of the municipality, upon the recommendation of the Stormwater Technician, based on improvements in engineering, science, monitory and local maintenance experience. 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.

- (2). General performance criteria for storm water management.** The following performance criteria shall be addressed for storm water management at all sites: Storm Event Design Criteria. All site designs shall control the peak flow rates of storm water discharge associated with the one (1) year, two (2) year, five (5) year, and ten (10) year, year NRCS Type II twenty-four (24) hour design storm frequency and reduce the generation of post construction storm water runoff to pre-construction quantities.
 - (a) These practices should seek to utilize pervious areas for storm water treatment and to infiltrate storm water runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity. Whenever detention or retention ponds are employed as part of a storm water management system, then such ponds and related storm water management equipment and facilities shall be maintained in perpetuity, as provided for in Section 4, subsection (4) (g) below.
 - (b) To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the BMP manual, and as set out in 4(6) below.
 - (c) Storm water discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain storm water management practices.
 - (d) Storm water discharges from Hot Spots may require the application of specific structural BMPs and pollution prevention practices.
 - (e) Prior to or during the site design process, applicants for land disturbance permits shall consult with the Stormwater Technician to determine if they are subject to additional storm water design requirements.

- (f) The calculations for determining peak flows as found in the BMP manual shall be used for sizing all storm water facilities.
- (g). Minimum control requirements.
 - (1) Effective erosion prevention and sediment controls should be designed, installed and maintained to minimize the discharge of pollutants. At a minimum, such controls must be designed, installed and maintained to:
 - (i) Control stormwater volume and velocity within the site to minimize soil erosion;
 - (ii) Control stormwater discharges, including both peak flow rates and total stormwater volume, to minimize erosion at outlets and to minimize downstream channel stream bank erosion;
 - (iii) Minimize the amount of soil exposed during construction activity;
 - (iv) Minimize the disturbance of steep slopes;
 - (v) Eliminate (or minimize if complete elimination is not possible) sediment discharges from the site. The design, installation and maintenance of erosion prevention and sediment controls must address factors such as the design storm and soils characteristics, including the range of soil particle sizes expected to be present on the site;
 - (vi) Provide and maintain natural buffers around surface waters, direct stormwater to vegetated areas to increase sediment removal and maximize stormwater infiltration, unless infeasible; and
 - (vii) Minimize soil compaction and, unless infeasible, preserve topsoil
 - (2) Storm water designs shall meet the multi-stage storm frequency storage requirements as identified in Section 4(2)(a).
 - (3) Detention of storm water shall be required if there is to be a net increase in runoff from the site during a ten (10) year storm event following development (or redevelopment), regardless of the size of the site; or, if the site will contain one-half (1/2) acre or more of impervious area (driveways, parking lots, sidewalks, patios, roofs) following development (or redevelopment). Where a detention pond or retention pond, and related equipment and facilities are designed and intended to provide storm water management for more than one lot and/or for more than one property owner, such as is the case for residential and commercial subdivisions, and residential and commercial condominiums, including interval ownership (time-share) tourist housing, then a legally established property owner's association shall have the responsibility of ownership and maintenance of such areas in perpetuity. The maintenance plan and maintenance agreement shall be constructed as provided for in Section 4(4)(g) of this ordinance.
 - (4) Soil, sediment, and debris brought onto streets, roads and public ways must be removed by the end of the work day by machine, broom, shovel, etc. to the satisfaction of the Authority. Any time work is performed on or adjacent to any road safety will be the primary consideration. Safety considerations will extend to the traveling public, local bystanders, and work crews. Work crews will strictly adhere to the Manual of Uniform

Traffic Control Devices, Part VI, Work Zone Safety. Failure to remove the sediment, soil or debris shall be deemed as a violation of this ordinance.

- (5) If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the Stormwater Technician may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

- (3). **Storm water management plan requirements.** The storm water management plan shall include sufficient information to allow the Stormwater Technician to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing storm water generated at the project site. To accomplish this goal the storm water management plan shall include the following:

- (a) **Topographic Base Map:** A 1" = 100' topographic base map of the site, unless otherwise required by site conditions, which extends a minimum of fifty (50) feet beyond the limits of the proposed development and indicates:

- (1) Existing surface water drainage including streams, ponds, culverts, ditches, sink holes, wetlands, high quality and/or impaired streams; and the type, size, elevation, etc., of nearest upstream and downstream drainage structures;
- (2) Current land use including all existing structures, locations of utilities, roads, and easements;
- (3) All other existing significant natural and artificial features;
- (4) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading;
- (5) Proposed structural BMPs. In instances in which a detention or retention basin is to be employed as a part of the storm water management system, the outlet structures from such basins shall be reinforced concrete pipe (RCP);
- (6) A written description of the site plan and justification of proposed changes in natural conditions may also be required, as set forth by the Stormwater Technician.

- (b) **Calculations:** Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in the BMP manual. These calculations must show that the proposed storm water management measures are capable of controlling runoff from the site in compliance with this ordinance and the guidelines of the BMP manual. Such calculations shall include:

- (1) A description of the design storm frequency, duration, and intensity where applicable;
- (2) Time of concentration;
- (3) Soil curve numbers or runoff coefficients including assumed soil moisture conditions;

- (4) Peak runoff rates and total runoff volumes for each watershed area;
 - (5) Infiltration rates, where applicable;
 - (6) Culvert, storm water sewer, ditch and/or other storm water conveyance capacities;
 - (7) Flow velocities;
 - (8) Data on the increase in rate and volume of runoff for the design storms referenced in the BMP manual; and
 - (9) Documentation of sources for all computation methods and field test results.
- (c) **Soils Information:**
- (1) If a storm water management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.
 - (2) Instances in which pipes, culverts, or other types of storm water or utility conduits are located within and/or pass through an earthen berm, special care shall be taken to choose an appropriate soil type, which is properly compacted so that all piping remains stable and watertight.
- (d) **Runoff Reduction.** Site design for all new and redevelopment projects require, in combination or alone, management measures that are designed, built and maintained to infiltrate, evapotranspire, harvest and/or use, at a minimum, the first inch of every rainfall event preceded by 72 hours of no measureable precipitation. This first inch of rainfall must be 100% managed with no discharge to surface waters.
- (1) Limitations to the application of runoff reduction requirements include, but are not limited to:
 - (a) Where a potential for introducing pollutants into the groundwater exists, unless pretreatment is provided;
 - (b) Where pre-existing soil contamination is present in areas subject to contact with infiltrated runoff;
 - (c) Presence of sinkholes or karst features;
 - (d) Pre-development infiltrative capacity of soils at the site must be taken into account in selection of runoff reduction management measures.
 - (e) Incentive Standards for redeveloped sites: a 10% reduction in the volume of rainfall to be managed for any of the following types of developments. Such credits are additive so that a maximum reduction of 50% of the runoff reduction requirements for a project that meets all 5 criteria:

- (1) Redevelopment;
 - (2) Brownfield redevelopment;
 - (3) High density (>7 units per acre);
 - (4) Vertical density
 - (5) Mixed use and Transit Oriented Development (within ½ mile).
- (e) **Pollutant Removal.** For projects that cannot meet 100% of the runoff reduction requirement unless subject to the incentive standards, the remainder of the stipulated amount of rainfall must be treated prior to discharge with a technology reasonably expected to remove 80% of the total suspended solids (TSS). The treatment technology must be designed, installed and maintained to continue to meet this performance standard.
- (f) **Off-site Mitigation.** For projects that cannot meet 100% of the runoff reduction requirements, the Authority may allow runoff reduction measures to be implemented at another location within the same USGS 12- digit hydrologic unit code (HUC) as the original project. Off-site mitigation must be a minimum of 1.5 times the amount of water not managed on site. The off-site mitigation location (or alternative location outside the HUC 12) and runoff reduction measures must be approved by the Authority. The Authority shall identify priority areas within the watershed in which mitigation projects can be completed to the applicant. The Authority will select the mitigation project from an inventory of appropriate mitigation projects. The project must meet appropriate institutional standards and provide whatever effort is required to assist the Authority to value, to evaluate, and track the transaction. Mitigation can be used for retrofit or redevelopment projects, but should be avoided in areas of new development.
- (g) **Maintenance and Repair Plan:** The design and planning of all storm water management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans will identify the parts or components of a storm water management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan. A permanent elevation benchmark shall be identified in the plans to assist in the periodic inspection of the facility.
- (h) **Landscaping Plan:** The applicant must present a detailed plan for management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This landscaping plan shall comply with the City of Pigeon Forge Zoning Ordinance.
- (i) **Maintenance Easements:** The applicant must ensure access to the site for the purpose of inspection and repair by securing all the maintenance easements needed. These easements must be binding on the current

property owner and all subsequent owners of the property and must be properly recorded in the Register of Deeds Office for Sevier County Tennessee.

(j) **Maintenance Agreement:**

- (1) The owner of property to be served by an on-site storm water 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, and shall be recorded in the Register of Deeds Office for Sevier County, Tennessee.
- (2) The maintenance agreement shall:
 - (a) Assign responsibility for the maintenance and repair of the storm water 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 a periodic inspection by the property owner for the purpose of documenting maintenance and repair needs and ensure compliance with the purpose and requirements of this ordinance. 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 City Engineer. It shall also grant permission to the city to enter the property at reasonable times and to inspect the storm water facility to ensure that it is being properly maintained.
 - (c) Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, grass cuttings and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other storm water 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.
 - (d) Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the City Engineer.
 - (e) Provide that if the property is not maintained or repaired within the prescribed schedule, the City of Pigeon Forge (or its contractor) shall perform the maintenance and repair at its expense, and bill the same to the property owner. The maintenance agreement shall also provide that the City of Pigeon Forge's cost of performing the maintenance shall be a lien against the property, shall run with the land and be recorded in the Register of Deeds Office for Sevier County Tennessee.

- (3) The City shall have the discretion to accept the dedication of any existing or future storm water management facility, provided such facility meets the requirements of this ordinance, and includes adequate and perpetual access and sufficient areas, by easement or otherwise, for inspection and regular maintenance. Any storm water facility accepted by the City must also meet the City's construction standards and any other standards and specifications that apply to the particular storm water facility in question.
 - (a) Sediment and Erosion Control Plans: The applicant must prepare a sediment and erosion control plan for all construction activities that complies with Section 4(5) below.
 - (b) Buffer Plans: The applicant must prepare a buffer plan for all streams, rivers, creeks, ponds, lakes, or other bodies of water that complies with Section 4(6) below.

- (4). **Sediment and erosion control plan requirements.** The sediment and erosion control plan shall accurately describe the potential for soil erosion and sedimentation problems resulting from land disturbing activity and shall explain and illustrate the measures that are to be taken to control these problems. The plan shall incorporate designs and standards as described in the current BMP manual adopted in this ordinance as well as the current Tennessee Construction General Permit (TNCGP). The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and potential for off-site damage. A registered professional engineer licensed in the state of Tennessee shall seal the plan.

Erosion prevention and sediment control measures shall be designed according to the size and slope of disturbed drainage areas with the goal of detaining runoff and trapping sediment. Erosion prevention and sediment controls shall be designed to control the rainfall and runoff from a 2 year, 24 hour storm, as a minimum. For sites with over 10 acres disturbed at one time a temporary (or permanent) sediment basin that provides storage for a calculated volume of runoff from a 2-year, 24 hour storm for each acre drained, or equivalent control measures, shall be provided until final stabilization of the site. Where no such calculation has been performed, a temporary (or permanent) sediment basin providing 3,600 cubic feet of storage per acre drained, or equivalent control measures, shall be provided until final stabilization of the site.

All sites that are draining to either sediment impaired or high quality waters identified by TDEC on the most current 303(d) list shall be designed at a minimum to control storm runoff generated by a 5-year, 24 hour storm event. For sites over 5 acres that are draining to either sediment impaired or high quality waters, refer to the latest edition of the Tennessee Construction General Permit (TNCGP) Section 4.4 Discharge Into Impaired or High Quality Waters for design controls.

The plan shall also conform to the requirements found in the BMP manual, and shall include at least the following:

- (a) Project Description - Briefly describe the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required.
- (b) Identify all potential sources of pollution which are likely to affect the quality of stormwater discharges from the construction site;
- (c) Describe practices to be used to reduce pollutants in stormwater discharges from the construction/ permitted site;
- (d) Assure compliance with the terms and conditions of this permit.
- (e) A general location map (e.g. portion of a county tax map or similar plat) indicating the locations of existing roads or landmarks, any high quality and/or impaired streams, drainage patterns and approximate slopes anticipated after major activities, areas of soil disturbance and outline of areas that are not to be disturbed, the size and location of major structural and nonstructural controls identified in the plan, the location of areas where stabilization practices are expected to occur, the location of receiving water(s), locations of discharges into or immediately up stream of high quality or impaired waters, wetlands, sinkholes and all outfalls where runoff will leave the property should be identified. Stream(s) receiving the discharge, and storm sewer system(s) conveying the discharge from all site outfalls should be clearly identified and marked on the map. NOIs for linear projects must specify the location of each end of the construction area and all areas to be disturbed. Commercial and/ or industrial builders that develop separate SWPPPs that cover only their portion of the project shall also submit a site or plat map that clearly indicates the lot(s) which they are applying for permit coverage and the location of streams, conveyances, storm sewer connections and outfalls leaving the permitted portion of the property
- (f) Where properties, lots and/or parcels have an average of 20% slope or greater, detailed development and design standards shall be referred to within the “Critical Slope Overlay Zone” (steep slope) requirements adopted in the current Sevier County Zoning Resolution. Additional drainage system design criteria are established for street designs, ditches, grades, driveway accesses, utilities placements, as well as “as-built” certifications, etc., within the current Sevier County Subdivision Regulations. Also, when steep slopes and/ or fine particle soils are present at the site, additional physical or chemical treatment of stormwater runoff may be required.
- (g) A topographic map with contour intervals of five (5) feet or less showing present conditions and proposed contours resulting from land disturbing activity.
- (h) All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or flood plains and high quality and/or impaired streams.
- (i) A general description of existing land cover. Individual trees and shrubs do not need to be identified.
- (j) Stands of existing trees as they are to be preserved upon project completion, specifying their general location on the property. Differentiation shall be made between existing trees to be preserved, trees to be removed and

proposed planted trees. Tree protection measures must be identified, and the diameter of the area involved must also be identified on the plan and shown to scale. Complete landscape plans may be submitted separately.

- (k) Approximate limits of proposed clearing, grading and filling.
- (l) Approximate flow volumes of existing storm water leaving any portion of the site.
- (m) A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.
- (n) Location, size and layout of proposed storm water and sedimentation control improvements.
- (o) Proposed drainage network.
- (p) Proposed drain tile or waterway sizes.
- (q) Approximate flow volumes leaving site and their location after construction and incorporating water run-off mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems, including but not limited to high quality and/or impaired waters, wetlands, sinkholes, and locations where storm water is discharged to surface water. The plan must address the adequacy of outfalls from the development: when water is concentrated, what is the capacity of waterways, if any, accepting storm water off-site; and what measures, including infiltration, sheeting into buffers, etc., are going to be used to prevent the scouring of waterways and drainage areas off-site, etc.
- (r) The projected sequence of work represented by the grading, drainage and sedimentation and erosion control plans as related to other major items of construction, beginning with the initiation of excavation and including the construction of any sediment basins or retention facilities or any other structural BMP's.
- (s) Specific remediation measures to prevent erosion and sedimentation run-off. Plans shall include detailed drawings of all control measures used; stabilization measures including vegetation and non-vegetation measures, both temporary and permanent, will be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan.
- (t) Specific details for: the construction of rock pads, wash down pads, and settling basins for controlling erosion; road access points; eliminating or keeping soil, sediment, and debris on streets and public ways at a level acceptable to the Stormwater Technician. Soil, sediment, and debris brought onto streets and public ways must be removed by the end of the workday by machine, broom or shovel to the satisfaction of the Stormwater Technician. Failure to remove the sediment, soil or debris shall be deemed a violation of this ordinance.
- (u) Proposed structures; location (to the extent possible) and identification of any proposed additional buildings, structures or development on the site.
- (v) A description of on-site measures to be taken to recharge surface water into the ground water system through infiltration.

- (w) The SWPP must include documentation supporting a determination of permit eligibility with regard to waters that have an approved TMDL for pollutant of concern, including:
- (1) Identification of whether the discharge is identified, either specifically or generally, in an approved TMDL and any associated wasteload allocations, site specific requirements, and assumptions identified for the construction stormwater discharge;
 - (2) Summaries of consultation with the Authority and TDEC on consistency of SWPPP conditions with the approved TMDL, and;
 - (3) Measures taken to ensure that the discharge of TMDL identified pollutants from the site are consistent with the assumptions and requirements of the approved TMDL, including any specific waste-load allocation that has been established that would apply to the construction stormwater discharge.
- (x) The plan shall include detailed drawings of all structural and non-structural controls and stabilization measures which shall be designed to minimize erosion and maximize sediment removal resulting in storm water discharge associated with the two (2) year, twenty-four (24) hour design storm event as a minimum, either from total rainfall in the designated period or the equivalent intensity as specified on the following website http://hdsc.nws.noaa.gov/hdsc/pdfs/orb/tn_pdfs.html. These specific details for constructing stabilized construction entrance/exits, concrete washouts, sediment basins for controlling erosion, and road access points, etc., should be designed to eliminate or keep soils, sediment, and/or debris to a minimum.
- (y) Other Items needing control:
1. No solid materials, including building materials, shall be placed in waters of the state, except as authorized by a section 404 permit and/ or ARAP permit.
 2. For installation of any waste disposal systems on site, or sanitary sewer or septic system, the SWPPP shall identify these systems and provide for the necessary erosion prevention and sediment controls. Permittees must also comply with applicable state and/ or local waste disposal, sanitary sewer or septic system regulations for such systems to the extent these are located within the permitted area.
 3. The SWPPP shall include a description of construction and waste materials expected to be stored on site. The SWPPP shall also include a description of controls used to reduce pollutants from materials stored on site, including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response.
 4. A description of stormwater sources from areas other than construction and a description of controls and measures that will be implemented at those sites.
 5. A description of measures necessary to prevent a “taking” of legally protected state or federal listed threatened or endangered aquatic fauna and/ or critical habitat (if applicable). The Permittee must describe and implement such measures to maintain eligibility for coverage under this permit.

- (z) Plans Modification(s)
- (i) A SWPPP must be modified and updated if any of the following are met:
1. 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 has not otherwise been addressed in the SWPPP;
 2. When inspections or investigations by site inspectors, local, state or federal officials indicate the SWPP is proving ineffective in eliminating or significantly minimizing pollutants from being discharged, or is otherwise not achieving the general objectives of controlling pollutants in stormwater discharges associated with construction activity.
 3. To identify any new permittee (e.g., owner, contractor, sub-contractor) as needed to reflect operational or design control that will implement a measure of the SWPPP;
 4. To include measures necessary to prevent a negative impact to legally protected state or federally listed fauna or flora;
 5. A TMDL is developed for the receiving water(s) for a pollutant of concern (siltation and/ or habitat alteration)
- (ii) In the event the Authority finds that a Permittee is complying with the SWPPP, but contributing to the impairment of a receiving stream, then the discharger will be notified by the Authority in writing that the discharge is no longer eligible for coverage under the general permit. The Permittee may update the SWPPP and implement the necessary changes designed to eliminate further impairment to the stream. If the Permittee does not implement the SWPPP changes within a reasonable amount of time, the operator must file an individual permit with TDEC. To obtain the individual permit, the operator must file an individual permit application (EPA 1 &2F). The project must be stabilized immediately until the SWPPP is updated and the individual permit is issued. Only discharges from earth disturbing activities necessary for stabilization are authorized to continue until the individual permit is issued.

(5.) Discharges to Impaired or High Quality Waters

Discharges that would add loadings of a pollutant that is identified as causing or contributing to an impairment of a water body on the list of impaired waters (303D List) or which would cause degradation to waters designated by TDEC as high quality waters are subject to and shall comply with the requirements of the Tennessee Construction General Permit (TNCGP) currently adopted by the Tennessee Department of Environment and Conservation (TDEC).

(6.) Buffer requirements.

(a) Blue line stream and other bodies of water: Whenever a development or redevelopment site has a blue line stream or other body of water (pond, stream, creek, lake) on such site, flowing through such site, or bordering such site, a buffer of natural and/or man made vegetation shall be maintained and/or installed which is at least thirty (30) feet in width, as measured from the top of the bank of such stream or body of water. Except as may be in conflict with the intent of this ordinance, provisions of the zoning ordinance, flood damage prevention ordinance, or other ordinances and regulations of the city, buffer areas may be occupied by non-polluting uses and areas such as grassed or landscaped yards, park and picnic areas, greenways, walking trails, and/or undisturbed native vegetation. The Stormwater Technician may allow driveway and road construction to occur through a buffer upon finding that the integrity of the buffer will not be compromised. Permits for stream crossings may also require permits from federal, state, and other local agencies.

(b) Whenever a development or redevelopment is adjacent to a stream or has a stream flowing through the property designated as impaired or high quality then a buffer zone shall be maintained in accordance with the most current TNCGP Section 4.4 Discharges into Impaired or High Quality Waters. An undisturbed vegetative buffer of thirty (30) feet (as measured from the top-of-bank) shall be maintained adjacent to all free-flowing waters of the state located including bodies of water such as perennial and intermittent streams, rivers, ponds and lakes and wetlands. Buffer width depends on the size of the drainage area. Streams or other waters with drainage areas less than 1 square mile will require buffer widths of 30ft of buffer zone. Streams or other waters with drainage areas greater than 1 square mile will require buffer widths of 60ft minimum in all urbanized areas.

A 60 ft buffer width has been established for sites that contain or are adjacent to a receiving stream designated as impaired or exceptional waters. This 60ft buffer can be established on an average width basis at a project, as long as the minimum width of the buffer is more than 30 ft at any measured location.

In areas of the jurisdiction, an undisturbed vegetative buffer of thirty (30) feet can be established on an average basis at a project, as long as the minimum width of the buffer is no more than fifteen (15) feet at any measured location.

Vegetated, preferably native, water quality buffers protect water bodies by providing structural integrity and canopy, as well as storm water infiltration, filtration and evapotranspiration. Buffer zones are not primary sediment control measures and should not be relied upon as such.

Every effort should be made of construction activities not to take place within the buffer and the buffer should remain in its undisturbed state of vegetation. BMPs providing equivalent protection to a receiving stream as

a natural riparian buffer zone may be used at a construction site. Such BMPs shall be designed to be effective in protecting the receiving water from effects of stormwater runoff as a natural riparian zone. A justification for use and a design of equivalent BMPs shall be included in the SWPPP. Such equivalent BMPs are expected to be routinely used at a construction project typically located adjacent to surface waters. These projects include, but are not limited to: sewer line construction, Roadway construction, utility line or equipment installation, greenway construction, construction of a permanent outfall or a velocity dissipating structure, etc. Enhancements, restoration and re-establishment may be allowed with proper permit(s).

The Authority may allow a variance to the water quality buffer requirements. When a variance is allowed by the Authority, mitigation must be at least as protective of the natural resources and the environment as the undisturbed buffer. A determination that standards cannot be met may not be based solely on the difficulty or cost associated with implementation.

If it is infeasible to provide an undisturbed naturally vegetated buffer of any size between the disturbed portion of your site and any waters of the state, sediment and erosion controls certified by a TN licensed professional engineer to achieve the equivalent sediment load reduction as an undisturbed naturally vegetated, 30-foot buffer may be implemented on approval by the Storm Water Appeals Board.

(1) Exception. If pre-existing development on the site has resulted in significant disturbances within the 30-foot buffer (for example, sites where all vegetation in the 30-foot buffer area has been removed and replaced with impervious surfaces as a result of prior development), you are exempt from complying with the buffer requirements as long as the area of encroachment is not extended.

Section 5. Post Construction.

1. Landscaping and stabilization requirements.

(a) Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall be revegetated according to a schedule approved by the Pigeon Forge Public Works Dept. Storm Water Technician. The following criteria shall apply to revegetation efforts:

(1) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.

(2) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.

(3) Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.

(4) If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the Authority may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

(5) For projects discharging to waters considered impaired by sediment or habitat alteration due to in-channel erosion, the SWPPP shall include a description of measures that will be installed during the construction process to control pollutants and any increase in the volume of stormwater discharges that will occur after construction operations have been completed. For steep slopes sites, the SWPPP shall also include a description of measures that will be installed to dissipate the volume and energy of the stormwater runoff to pre-development levels.

(6) Velocity dissipation devices shall be placed at discharge locations and along the length of any outfall channel to provide a non-erosive velocity flow from the structure to the receiving stream so that the natural physical and biological characteristics and functions of the stream are maintained and protected (e.g., there should be no significant changes in the hydrological regime of the receiving water). The SWPPP shall include an explanation of the technical basis used to select the velocity dissipation devices to control pollution where flows exceed pre-development levels. The Tennessee Erosion and Sediment Control Handbook provides measures that can be incorporated into the design or implemented on site to decrease erosive velocities. An Aquatic Resources Alteration Permit (ARAP) may be required if such velocity dissipation devices installed would alter the receiving stream and- or its bank.

(b) In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.

2. **Runoff Reduction**

Site design for all new and redevelopment projects in urbanized areas require, in combination or alone, management measures that are designed, built and maintained to infiltrate, evapotranspire, harvest and/or use, at a minimum, the first inch of every rainfall event preceded by 72 hours of no measureable precipitation. This first inch of rainfall must be 100% managed with no discharge to surface waters.

(a) Limitations to the application of runoff reduction requirements include, but are not limited to:

- (1) Where a potential for introducing pollutants into the groundwater exists, unless pretreatment is provided;
- (2) Where pre-existing soil contamination is present in areas subject to contact with infiltrated runoff;
- (3) Presence of sinkholes or karst features;

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

(c) Incentive Standards for redeveloped sites: a 10% reduction in the volume of rainfall to be managed for any of the following types of developments. Such credits are additive so that a maximum reduction of 50% of the runoff reduction requirements for a project that meets all 5 criteria:

- (1) Redevelopment
- (2) Brownfield redevelopment
- (3) High density development
- (4) Vertical density
- (5) Mixed use and transit oriented development (within ½ mi.)

(d) Pollutant Removal - For projects in urbanized areas that cannot meet 100% of the runoff reduction requirement unless subject to the incentive standards, the remainder of the stipulated amount of rainfall must be treated prior to discharge with a technology reasonably expected to remove 80% of the total suspended solids (TSS). The treatment technology must be designed, installed and maintained to continue to meet this performance standard.

(e) Off-site Mitigation - For projects in urbanized areas that cannot meet 100% of the runoff reduction requirements, the Authority may allow runoff reduction measures to be implemented at another location within the same USGS 12- digit hydrologic unit code (HUC) as the original project. Off-site mitigation must be a minimum of 1.5 times the amount of water not managed on site. The off-site mitigation location (or alternative location outside the HUC 12) and runoff reduction measures must be approved by the Authority. The Authority shall identify priority areas within the watershed in which mitigation projects can

be completed to the applicant. The Authority will select the mitigation project from an inventory of appropriate mitigation projects. The project must meet appropriate institutional standards and provide whatever effort is required to assist the Authority to value, to evaluate, and track the transaction. Mitigation can be used for retrofit or redevelopment projects, but should be avoided in areas of new development.

3. **Inspection of stormwater management facilities.**

(a) Periodic inspections of facilities shall be performed as provided for in §4(3)(j)(2)(b).

(b) In order to ensure that all storm water BMPs are operating correctly and being properly maintained, the Authority shall, at a minimum, require owners or operators of storm water management practices to:

(1) Perform routine inspections to ensure that the BMPs are properly functioning. These inspections shall be conducted on an annual basis, at a minimum. These inspections shall be conducted by a person familiar with control measures implemented at a site. Owners or operators shall maintain documentation of these inspections.

(2) Perform comprehensive inspections of all storm water management facilities and practices. These inspections shall be conducted once every five (5) years, at a minimum. Such inspections must be conducted by either a professional engineer or landscape architect.

Complete inspection reports for these five year inspections shall include:

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

Owners or operators shall maintain documentation of these inspections. The Authority may require submittal of this documentation

4. **Records of installation and maintenance activities.** Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at least two years. These records shall be made available to the Public Works Dept. Storm Water Technician during inspection of the facility and at other reasonable times upon request.

5. **Failure to meet or maintain design or maintenance standards.** If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this ordinance, the Pigeon Forge Public

Works Dept. Storm Water Technician, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the Pigeon Forge Public Works Dept. Storm Water Technician shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall maintain and repair the facility in an approved manner within an amount of time deemed necessary by the Public Works Dept. Storm Water Technician. In the event that corrective action is not undertaken within that time, the Pigeon Forge Public Works Dept. Storm Water Technician may take necessary corrective action. The cost of any action by the Pigeon Forge Public Works Dept. Storm Water Technician under this section shall be charged to the responsible party or charged as a tax lien on the property.

Section 6. Illicit discharges.

1. **Scope.** This section shall apply to all water generated on developed or undeveloped land entering the municipality'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 storm water. The commencement, direction or continuance of any non-storm water discharge to the municipal separate storm sewer system is prohibited.
 - (a) Prohibitions. No person shall be allowed to, or continue to, any of the following:
 - (1) Connect, or allow to be connected, any sanitary sewer to the storm water system including any sanitary sewer connected to the storm water system as of the date of adoption of this section.
 - (2) Cause or allow an illicit discharge to the storm water system, or any component thereof, or onto driveways, sidewalks, parking lots, sinkholes, creek banks, or other areas draining to the storm water system. Illicit discharges include, but are not limited to:
 - (b) Sewage discharges or overflows, including Sanitary Sewer Overflows (SSOs);
 - (c) Discharges of wash water resulting from the hosing or cleaning of gas stations, auto repair garages, or other types of automotive services facilities;
 - (d) Discharges resulting from the cleaning, repair, or maintenance of any type of equipment, machinery, or facility including motor vehicles, cement related equipment, and port-a-potty servicing, etc.;
 - (e) Discharges of wash water from mobile operations such as mobile automobile washing, steam cleaning, power washing, and carpet cleaning, etc.;
 - (f) Discharges of wash water from the cleaning of hosing of impervious surfaces in industrial and commercial areas including parking lots, streets, sidewalks, driveways, patios, plazas, work yards, and outdoor eating or drinking areas, etc.;
 - (g) Discharges of runoff from material storage areas containing chemicals, fuels, grease, oil, or other hazardous materials;
 - (h) Discharges of pool or fountain water containing chlorine, biocides, or other chemicals; discharges of pool or fountain filter backwash water;
 - (i) Discharges of sediment, or construction-related wastes, etc.;
 - (j) Discharges of food-related wastes (e.g., grease, fish processing, and restaurant kitchen mat and trash bin wash water, etc.).
 - (k) Subject to the provisions of subsection (c), the following uncontaminated discharges shall not be in violation of this section:
 - (1) 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 storm drains,
 - vi. Pumped groundwater,
 - vii. Foundation or footing drains,
 - viii. Crawl space pumps,
 - ix. Air conditioning condensation,
 - x. Springs,
 - xi. Non-commercial washing of vehicles,
 - xii. Natural riparian habitat or wet-land flows,
 - xiii. Swimming pools (if dechlorinated),
 - xiv. Firefighting activities, and
 - xv. Any other uncontaminated water source.
- (2) Discharges from potable water sources,
 - (3) Individual noncommercial car washing on residential properties; or car washing of less than two (2) consecutive days in duration for a charity, nonprofit fund raising, or similar noncommercial purpose,
 - (4) Incidental street wash water from street cleaning equipment designed for cleaning paved surfaces and limiting waste discharges,
 - (5) Street deicing for public safety,
 - (6) Any activity authorized by a valid NPDES permit, and
Any other uncontaminated water source.
 - (7) Discharges specified in writing by the Pigeon Forge Public Works Dept Stormwater Technician as being necessary to protect public health and safety.
 - (8) Dye testing is an allowable discharge if the Pigeon Forge Public Works Dept. Stormwater Technician has so specified in writing.
- (l) If the Stormwater Technician finds that any activity, including but not limited to any of the activities listed in subsection (b) above, are found to cause or may cause sewage, industrial wastes or other wastes to be discharged into the storm water system, the Stormwater Technician shall so notify the person performing such activities, and shall order that such activities be stopped or conducted in such manner as to avoid the discharge of sewage, industrial wastes or other wastes into the storm water system. The Stormwater Technician may require a storm water pollution prevention plan to insure that the activity can be conducted without causing further discharge of pollution to the storm water system.
- (m) Right of Testing. The Director may require the owner or operator of any facility engaging in any activity where an illicit discharge is occurring to undertake such reasonable monitoring of any discharges to the Municipal Separate Storm Sewer System (MS4) and to furnish periodic detailed reports of such discharges.
- (n) Third Party Testing - All third party testing and analysis should be in accordance to TDEC Environmental Assistance Center (EAC) protocols.

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.
 - (b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
4. **Reduction of stormwater pollutants by the use of best management practices.** Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMP's 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 compliance with the provisions of this section.
5. **Notification of spills.** Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into 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. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the Pigeon Forge Public Works Dept. Stormwater Technician within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall submit to the Pigeon Forge Public Works Dept. Stormwater Technician within fourteen (14) calendar days of knowledge of a release a written description of the release, the circumstances leading to the release and the date of the discharge. In addition, the Permittee must identify measures to prevent the re-occurrence of such discharge, as well. Such records shall be retained for at least three (3) years.
6. **Hot Spots.** The discharge of hazardous substances or oil into the municipal storm sewer system from hot spots including, but not limited to: garages, repair shops, junk yards, detailing shops, car washes, restaurants (where grease traps are maintained with a seating capacity of 250 or greater), commercial properties with large paved parking areas, factories, retail facilities, manufacturing plants (such as concrete plants, asphalt plants, etc.), storage lots, maintenance areas, sanitary waste water, effluent from septic tanks and alternative sewer systems, carpet cleaning waste water, laundry waste water/ gray water and household toxics etc., shall be prohibited.

This section also requires these and other businesses and facilities already in operation within the boundaries of the City of Pigeon Forge must maintain proper storage and disposal practices of hazardous substances and oil.

Section 7. Enforcement

- (1). **Enforcement authority.** The director of the Pigeon Forge Public Works Dept. Storm Water Technician or his designee(s) shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this section. Enforcement procedures follow a standardized progression of events that are collectively known as a force continuum enforcement protocol to be applied by the City of Pigeon Forge Public Works Dept. Storm Water Technician or other authorized agents. Each enforcement action should be based on it's own merits/ consideration, thus any and all steps of this continuum may be bypassed based on the

- (1) discretion of the inspector, designated employee(s),
- (2) egregiousness of violation,
- (3) amount of discharge,
- (4) damage to public and/ or private property,
- (5) number of previous violations,
- (6) any other pertinent circumstances, etc.

The establishment of this continuum shall include but not be limited to:

- (a). Site inspection
- (b). Verbal or written notice of inspection findings and corrective actions suggested
- (c). Follow up inspection
- (d). Notice of Violation or Compliance Order
- (e). Cease and Desist Order or Stop work Order
- (f). Civil Penalty
- (g). Suspension or Revocation of Permit

- (2). **Notification of violation.**

- (a) **Written Notice.** Whenever the director of the Pigeon Forge Public Works Dept. Storm Water Technician finds that any permittee or any other person discharging stormwater has violated or is violating this ordinance or a permit or order issued hereunder, the director/Storm Water Technician may serve upon such person written notice of the violation. Within ten (10) days of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the director/Storm Water Technician Water Technician. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.
- (b) **Consent Orders.** The Public Works Director/Storm Water Technician or his designee(s) is (are) empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent

orders shall have the same force and effect as administrative orders issued pursuant to paragraphs (d) and (e) below.

- (c) Show Cause Hearing. The director or his designee(s) may order any person who violates this ordinance or permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.
- (d) Compliance Order. When the directorStorm Water Technician finds that any person has violated or continues to violate this ordinance or a permit or order issued thereunder, he or his designee(s) may issue an order to the violator directing that, following a specific time period, adequate structures, devices, be installed or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.
- (e) Cease and Desist Orders. When the directorStorm Water Technician finds that any person has violated or continues to violate this ordinance or any permit or order issued hereunder, the directorStorm Water Technician may issue an order to cease and desist all such violations and direct those persons in noncompliance to:
 - (1) Comply forthwith; or
 - (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.
- (f) Referrals to TDEC for enforcement – Where the Authority has used “progressive enforcement” to achieve compliance with this ordinance, and in the judgment of the Authority has not been successful, the Authority may refer the violation to TDEC for enforcement. For the purposes of this provision, “progressive enforcement” shall mean two (2) follow-up inspections and two (2) warning letters. In addition, enforcement referrals to TDEC must include, at a minimum, the following:
 - (1) Construction project or industrial facility location;
 - (2) Name of the operator or owner;
 - (3) Estimated construction project size or type of industrial activity (including SIC code, if known);
 - (4) Records of communications with the owner or operator regarding the violation, including at least two follow-up inspections, two warning letters or notices of violation, and any response from the owner or operator.

- (g) Where there are outstanding or unpaid civil penalties, pending civil penalty appeals, and/or appeals in any governing body pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8, the permit holder nor his/ her representative(s) may receive any additional land disturbance permit until such time as all civil penalties have been paid in full and all matters have been adjudicated.
- (3). Conflicting standards.** Whenever there is a conflict between any standard contained in this ordinance and in the BMP manual adopted by the municipality under this ordinance, the strictest standard shall prevail.

Section 8. Penalties.

- (1). **Violations.** Any person who shall commit any act declared unlawful under this ordinance, who violates any provision of this ordinance, who violates the provisions of any permit issued pursuant to this ordinance, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the City Engineer, shall be guilty of a civil offense. When such violations also constitute violations of the City zoning ordinance and/or subdivision regulations, the violator may also be subject to penalties provided for violation of such ordinance and regulations in Title 13 of the TCA.
- Violations. Any person who shall commit any act declared unlawful under this ordinance, who violates any provision of this ordinance, who violates the provisions of any permit issued pursuant to this ordinance, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the Pigeon Forge Public Works Dept., shall be guilty of a civil offense.
- (2). **Penalties.** Under the authority provided in Tennessee Code Annotated §68-221-1106, the municipality declares that any person violating the provisions of this ordinance may be assessed a civil penalty by the Pigeon Forge Public Works Dept./City Judge of not less than fifty (\$50.00) nor more than five thousand (\$5000.00) dollars per day for each day of violation. Each day of violation shall constitute a separate violation.
- (3). **Measuring civil penalties.** In assessing a civil penalty, the director of the Pigeon Forge Public Works Dept. following may be considered:
- (a) The harm done to the public health or the environment;
 - (b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
 - (c) The economic benefit gained by the violator;
 - (d) The amount of effort put forth by the violator to remedy this violation;
 - (e) Any unusual or extraordinary enforcement costs incurred by the municipality;
 - (f) The amount of penalty established by ordinance or resolution for specific categories of violations; and
 - (g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.
- (4). **Recovery of damages and costs.** In addition to the civil penalty in subsection (2) above, the municipality may recover:
- (a) All damages proximately caused by the violator to the municipality, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this ordinance, or any other actual damages caused by the violation.
 - (b) The costs of the municipality's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this ordinance.
- (5). **Other remedies.** The municipality may bring legal action to enjoin the continuing violation of this ordinance, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.

(6). Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted.

Section 9. Appeals.

- (1) **Appeal Procedure.** As provided in 68-221-1106, TCA, any person served in any manner authorized by law in regard to a damage assessment or civil penalty related to the violation of this ordinance may appeal the imposition of such assessment or penalty within thirty (30) days of being served. If a violator has not corrected a violation within ten (10) days of receipt of a notice of violation and has not made application for a show cause hearing, then the violator shall have thirty (30) days after such hearing to file an appeal. The failure to initiate an appeal shall be deemed to represent the consent of the violator to the damage assessment or civil penalty imposed by the City. The appeals process shall be initiated when a request for a hearing before the Stormwater Board of Appeals, is received by the Pigeon Forge Stormwater Technician. The “Request for Appeal” shall be maintained in the office of the Pigeon Forge Stormwater Technician. Upon receipt, the Pigeon Forge Stormwater Technician shall arrange for a hearing before the Stormwater Appeals Board in a timely manner. Pursuant to Tennessee Code Annotated §68-221-1106(d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this ordinance may appeal said penalty or damage assessment.

Show Cause Hearing - any person who violates any provision of this Ordinance or requirement of a permit issued hereunder may show cause why a proposed enforcement action should not be taken. A notice of the meeting shall be filed in writing within ten (10) days after receipt of an order, civil penalty, damage assessment, etc.

A suspension or revocation of a permit should be first appealed to the agency having issued the permit. An appeal may then be made to the Storm Water Appeals Board.

Pursuant to Tennessee Code Annotated 68-221-1106 (d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this ordinance may appeal said penalty or damage assessment to the Storm Water Appeals Board.

- (2) **Stormwater Appeals Board.** The City hereby designates the Stormwater Appeals Board (SWAB) as the body authorized to hear appeals to damage assessments and civil penalties imposed upon a violator by the City, as provided for in Section 8 of this ordinance. The SWAB shall be composed of representatives of the Pigeon Forge Board of Zoning Appeals.
- (a) Appeals shall be made to the Storm Water Appeals Board. Each appeal shall be made within thirty (30) days after the damage assessment or civil penalty is served in any manner authorized by law. This appeal process begins when a request is received by the City of Pigeon Forge Storm Water Technician’s office which contains all information applicable to the violation and reasons for the appeal request.
- (3) **Public Notice required.** TCA 8-44-103 requires that public notice be made for “... a meeting not previously scheduled by statute, ordinance, or resolution, or for which notice is not already provided by law, City of Pigeon Forge shall give

adequate public notice of such meeting.” This will be accomplished by publishing a Public Notice in a local newspaper and a copy of the proposed agenda within the City of Pigeon Forge Storm Water Dept. office 10 days before each Storm Water Appeals Board meeting.

- (4) **General Regulations.** The violator shall be deemed to have consented to the damage assessment or civil penalty if a petition application is not filed within the thirty (30) day period and it shall become final. The alleged violator may appeal a decision of the Storm Water Appeals Board pursuant to the provisions of TCA title 27, chapter 8, allowing appeal to either Circuit or Chancery Court. Whenever any damage assessment or civil penalty has become final because of a person’s failure to appeal the municipality’s damage assessment or civil penalty, the municipality may apply to the appropriate Chancery Court for a judgment and seek execution of such judgment. The court, in such proceedings, shall treat the failure to appeal such damage assessment or civil penalty as a confession of judgment (TCA 68-221-1106 (e)).
- (5) **Public Hearing.** Prior to hearing the appeal of a person accused of a violation of this ordinance, the SWAB shall cause a notice of such hearing to be published in a daily newspaper of general circulation at least ten (10) days prior to the date of hearing.
- (6) **Finding of the SWAB.** Whenever the SWAB finds a person to be in violation of this ordinance, then such person shall be immediately subject to the penalties prescribed by the Stormwater Technician in the initial notice of violation, unless otherwise altered by the SWAB.
- (7) **Appeal of the Finding of the SWAB.** Any appeal from the finding of the SWAB shall be made to the state circuit court or chancery court, as provided for in Title 27, Chapter 8, TCA.
- (8) **Execution of Penalties.** Whenever any damage assessment or civil penalty has become final due to a person’s failure to appeal a notice of violation of this ordinance and therefore subject to the penalties imposed there under, and such person has failed to pay a damage assessment and/or take corrective action as directed, then the City may apply to Chancery Court for a judgment to compel such person to comply.

APPROVED: _____
MAYOR

ATTEST: _____
CITY RECORDER

Passed 1st Reading _____
Date

Passed 2nd Reading _____
Date

Section 10. Effective Date

- (1) This ordinance shall become effective fifteen days after its passage in accordance with the Charter of the City of Pigeon Forge, Tennessee, the public welfare demanding it.
- (2) Approved and Adopted by the Pigeon Forge, Tennessee, Mayor and Board of Commissioners.

Date