Originating Committee: *Zoning Administrator Oversight Committee*
Additional Approving Committee: *Washington County Regional Planning Commission*

WASHINGTON COUNTY, TENNESSEE
BOARD OF COUNTY COMMISSIONERS

RESOLUTION No. 12-08-06A-1*

RESOLUTION AMENDING
PEAK STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL

WHEREAS, Washington County, Tennessee is required to maintain a Small Municipal Separate Storm Sewer System (MS4) permit with the state of Tennessee; and; and

WHEREAS, Washington County, Tennessee was granted permit number TNS075787 on April 11, 2011, by the state of Tennessee; and

WHEREAS, Washington County, Tennessee is required to revise its ordinances and other regulatory mechanisms for permanent stormwater management to accommodate green infrastructure within 48 months of coverage under this permit as per section 4.1.2 of the permit; and

WHEREAS, Washington County, Tennessee adopted Resolution No. 12-08-06 "*Resolution Creating Peak Stormwater Management and Erosion and Sediment Control*" at the August 27, 2012, regular meeting of the Board of County Commissioners; and

WHEREAS, the following revisions are necessary to continue permanent stormwater management to accommodate green infrastructure:

1. Amend 513.7 (10) by deleting "minimum twenty-five (25) foot" from first sentence and adding the following at the end of the paragraph:

"The buffer widths are based on the drainage area to the point along the stream where the buffer is being determined:

(a) For drainage areas less than 1 square mile, the buffer is 30 feet.
(b) For drainage areas 1 square mile or more, the buffer is 60 foot average with a 30 foot minimum width. To use the 60-foot average, 30-foot minimum method, it must be shown that the straight 60-foot width would be a hardship to developing the property and may not be based solely on the difficulty or the cost of implementation.

If it is not practical to provide the required buffer or only a portion of the buffer can be provided, approval through the Washington County Stormwater Board of Appeals must be obtained. Justification for this

variance must be made in accordance with the Stormwater Board of Appeals criteria."

2. Amend 513.7 by adding the following at the end:

"(18.) For drainage areas of 10 acres or more to a single outfall (5 acres or more if draining to siltation or stream-side habitat alteration impaired or exceptional waters of the state), a site assessment by the design professional who prepared the plans shall be performed within 1 month of grading or clearing operations starting to verify the installation, functionality and performance of all erosion and sediment control measures on the plans and in the SWPPP. Any issues shall be addressed immediately and the plans and SWPPP updated, if applicable."

;and

WHEREAS, these revisions were presented to the Zoning Administrator Oversight Committee at the regularly scheduled meeting on May 5, 2015, and a motion was approved to recommend consideration for approval to the Regional Planning Commission; and

WHEREAS, these revisions were presented to the and the Washington County Regional Planning Commission at the May 5, 2015, meeting and a motion was approved to recommend adoption to the Board of County Commissioners; now therefore

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY, TENNESSEE THAT:

SECTION1. Peak Stormwater Management and Erosion and Sediment Control:

513.0 Short title
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513.12 Plan review
513.13 Reserved for future amendments
513.14 Zoning Administrator may require additional protective measures
513.15 Improperly maintained stormwater management facilities and drainage structures violation

513.16 Zoning Administrator responsible for providing safeguards in projects less than one acre
513.17 Existing developed properties with drainage, erosion and sediment concerns
513.18 Improvements needed at existing locations determined by the Zoning Administrator
513.19 Improvements required with existing developments subject to appeal
513.20 Monitoring, reports, and inspections
513.21 Certificate of Occupancy not issued until approvals
513.22 Grading Permit Security
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513.24 County clean-up resulting from violations at Developer's/Owner's expense
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Peak Stormwater Management and Erosion and Sediment Control

513.0 Short title. This Section shall be known as the "Peak Stormwater Management and Erosion and Sediment Control Resolution of Washington County, Tennessee".

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

513.2. Definitions. For the purpose of this Section, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Adequacy of Outfalls: The capacity of the receiving channel, stream, waterway, storm drain system, etc., and a determination whether it is adequately sized to receive runoff from the developed site so as to not cause erosion and/or flooding.

Best Management Practices (BMP's): A schedule of activities, prohibitions of practices, design, construction and maintenance procedures, and other management practices to prevent the pollution of stormwater runoff.

County: All unincorporated areas of Washington County, Tennessee.

Development: Any activity that involves making changes to the land contour by grading, filling, excavating, removal, or destruction of topsoil, trees, or vegetative covering.

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

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

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

Stormwater Management Facility: This term is used in a general sense to mean retention ponds, detention ponds, sedimentation basins, sediment traps, and any other structure that is constructed to reduce or control stormwater run-off and prevent silt and other pollutants from entering waterways. When terms such as sediment basins and detention ponds are used in this resolution, they are also intended to describe a variety of possible structures whose applications in certain circumstances helps control stormwater and waterway pollutants.

Stormwater Plan: For the purpose of this Section; a Stormwater Plan refers to a formal written document and/or drawing addressing grading, stabilization using vegetation, stormwater conveyance, stormwater management, and erosion and sedimentation controls, as specified in Subsections 513.4 through 513.7, that is reviewed by the Zoning Administrator with other technical assistance as deemed necessary, reviewed by the Washington County Planning Commission (Planning Commission), and if approved by the Planning Commission is used as the basis for the Zoning Administrator or designee to issue a Grading Permit that allows land disturbing activity to proceed.

Drainage Ways and Local Waters: Any and all streams, creeks, branches, ponds, reservoirs, springs, wetlands, wells, drainage ways and wet weather ditches, or other bodies of surface or subsurface water, natural or artificial including Washington County's stormwater system; lying within or forming a part of the boundaries of Washington County.

Enforcement Officer: The Zoning Administrator, designee, or any other person designated by the Washington County Board of County Commissioners to enforce the Stormwater Management and Erosion and Sedimentation Control Resolution.

Erosion: The general process whereby soils are moved by flowing surface or subsurface water.

Grading Permit: The permit that must be issued by the Zoning Administrator or designee, before any land disturbing activity is undertaken by a developer; or when grading, filling, or excavating is proposed on any project.

Land Disturbing Activity: Means any activity which may result in soil erosion from water or wind and the movement of sediments into drainage ways, or local waters, including, but not limited to, clearing of vegetation (including timber

operations), grading, excavating, transportation and filling of land, except that the term shall not include:

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

(b) construction, installation or maintenance of utility lines and individual service connections, or septic lines and drainage fields unless the disturbance is 1 acre or more.

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

SWPPP: Stormwater Pollution Prevention Plan. This is a combination of the Erosion and Sediment Control Plan and a narrative in accordance with the State of Tennessee's current Construction General Permit.

513.3. Regulated land disturbing activities:

513.3.1. Except as provided in subparts 513.3.2 and 513.3.3, it shall be unlawful for any person to engage in any land disturbing activity involving at least one (1) acre of land disturbance, or where the construction activity is part of a larger common plan of development or sale that would disturb one (1) acre or more of land without submitting and obtaining approval of a Stormwater Plan and a comprehensive SWPPP as detailed in Subsections 513.5 through 513.8 of this Section, and being issued a Grading Permit by the Zoning Administrator or designee.

513.3.2. Any person who owns, occupies and operates private agriculture or forest lands shall not be deemed to be in violation of this resolution of land disturbing activities which result from the normal functioning of these lands, however, the Zoning Administrator or designee have the authority to require "best practices" erosion and sedimentation control measures if pollution and run-off problems are evident.

513.3.3. Any State or Federal agency not under the regulatory authority of the Washington County for stormwater management, erosion and sediment control is exempt from the requirements of this resolution.

513.4. Permit required for any land disturbing activity: Any land disturbing activity, as defined in 513.2 and 513.3, shall require a Grading Permit, in addition to any Building Permit prior to the commencement of any work. Grading Permits for regulated land disturbing activities as defined in 513.3 will be issued by the Zoning Administrator or designee only upon the Developer meeting requirements outlined in Sections 513.5 through 513.8 of this Section which includes obtaining approval of a Stormwater Plan by the Planning Commission. A fee may be assessed for issuance of a grading permit.

A Grading Permit is also required for any development, construction activity, or land disturbing activity on less than one (1) acre of land but a formal stormwater plan approved by the Planning Commission is not required. The Zoning Administrator shall require that all grading, vegetation, drainage, stormwater, erosion and

sedimentation control measures necessary shall be implemented, shall conform to any and all Best Management Practices, and shall meet the objectives established in this resolution. Developers must also present to the Zoning Administrator a description of the measures that will be taken to address the requirements established in Subparts 513.6.13 and 513.6.14 of this Section - avoiding mud, sediment, rock and debris on public ways, streets, streams, and drainage ways. These measures must be addressed prior to the Zoning Administrator or designee issuing a Grading Permit. Measures preventing excess run-off and erosion must be in place prior to the commencement of grading and/or excavation.

A pre-construction meeting shall be held between Washington County and the developer (or their representative) for any project that discharges directly into or is immediately upstream of a Water of the State such as a stream, creek, river, or lake. No grading operations may take place until after the pre-construction meeting and perimeter sediment control devices are in place and functional.

513.5. Stormwater Plan and SWPPP required: A stormwater plan and a comprehensive SWPPP shall be required for all developments, subdivisions, or construction activities involving one (1) or more acres of land disturbance, except as exempted in Subparts 513.3.2 and 513.3.3 of this Section, or where the construction activity is part of a larger common plan of development or sale that would disturb one (1) acre or more of land.

513.6. Plan and SWPPP requirements: The Stormwater Plan shall be prepared and sealed by a registered design professional qualified to prepare stormwater plans in accordance with State of Tennessee law and in accordance with the current State of Tennessee Construction General Permit, where applicable. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and the potential for off-site damage.

The comprehensive SWPPP (plan and narrative), when required, shall be prepared by a person in accordance with the current State of Tennessee Construction General Permit. The SWPPP shall contain all information as required by the current State of Tennessee Construction General Permit. Be aware that the requirements for projects which drain into an impaired stream or Exceptional Waters of the State are different than for projects draining to an unimpaired stream.

The Stormwater plan shall include at least the following:

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

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

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

(4.) A general description of existing land cover; individual trees and shrubs do not need to be identified.

(5.) Limit of disturbance showing approximate limits of proposed clearing, grading and filling.

(6.) Drainage area map showing pre and post development stormwater leaving any portion of the site.

(7.) A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.

(8.) Location, size, details, and layout of proposed stormwater management. Provide appropriate details such as a profile through the principal spillway with cutoff trench, anti-seep control, trash rack details, compaction/backfill details or notes, riser detail, outlet stabilization, and emergency spillway detail for detention ponds and other details/sections as needed for the contractor to build the structures.

The low flow opening in a riser structure and its overflow shall have a trash rack to prevent the opening, the riser, and/or the principal spillway from becoming clogged. The trash racks shall not be flat across the openings.

Provide hydraulic calculations for stormwater facilities sealed by a design professional qualified to prepare hydraulic calculations in accordance with State of Tennessee law. As a minimum, the calculations shall include a pre and post development drainage area map, brief narrative, pre and post development runoff data, and routing calculations to determine the outflow rate from the stormwater management facility.

Stormwater management devices, including detention ponds, which are located in subdivisions shall be located on a non-buildable lot or within an easement if located on a buildable lot. Any existing and proposed easements shall be shown on the construction drawings as well as the recorded final plat. The construction drawings and the final plat shall state who is responsible for the maintenance of the stormwater management devices.

(9.) Proposed closed and open drainage network.

(10.) Proposed storm drain or waterway sizes.

(11.) Location and amount of stormwater runoff leaving site after construction and stormwater management measures proposed. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The plan must address the Adequacy of Outfalls from the development. When water is concentrated, what is the capacity of waterways and storm drains, if any, accepting stormwater off-site, and what measures including infiltration, sheeting into buffers, outfall setbacks, etc. are to be used to spread concentrated runoff and prevent the scouring of waterways and drainage areas off-site.

Outfall pipes from storm drain systems and stormwater management facilities shall be setback sufficiently from offsite properties to allow the concentrated water to spread out back to pre development flow characteristics. Under no circumstance shall an outfall pipe, as measured from the end section, headwall, or pipe, if no end structure is used, be any closer than ten (10) feet from the offsite property unless a drainage easement from the offsite property owner is obtained and recorded. The outfall setback shall be determined by the design professional and shall be based on outflow rate and the receiving channel or pipe characteristics.

Stormwater discharge from a concentrated point such as a pipe outfall shall discharge onto rip rap or other velocity/energy dissipating method to reduce erosion potential. All rip rap or other stone used to reduce velocity shall be placed on a geotextile to prevent scouring and the stone from sinking into the underlying soil.

The overflow path through the site and from any stormwater management device for stormwater runoff above the design storm event, shall not adversely impact any onsite structures such as buildings and roadway stability.

(12.) The sequence of construction is a vital component of the drainage and sediment control plan and it explains to the contractor, and Zoning Administrator, when the drainage and sediment control devices are to be constructed.

A general sequence of construction explaining when sediment control, drainage, and stormwater management devices are to be installed in relation to other components of the site development is to be provided on the plans. The sequence of construction shall state that no clearing or grading may begin until all perimeter sediment control devices are in place and functional.

(13.) Specific remediation measures to prevent erosion and sedimentation runoff, and to meet approved standards as outlined in Subsection 513.7 of this Section. Plans shall include detailed drawings of all control measures used; stabilization measures including vegetation and non-vegetative measures, both temporary and permanent, will be detailed or at a minimum referenced to an appropriate standard. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan, as appropriate.
To the extent necessary, sediment in runoff water must be trapped by the use of, sediment basins, silt traps or other sediment control measures until the disturbed area is stabilized. Structural controls shall be designed and maintained as required to prevent pollution.

All Sediment Control and Erosion Control Plans shall be designed to the minimum standards as set forth by the most current State of Tennessee's Erosion and Sediment Control Handbook. If there is a conflict between these regulations and the State of Tennessee's Regulation, the most stringent regulation shall apply.

All erosion and sediment control devices shall be designed for the 2 year, 24 hour storm as a minimum. For drainage area of 10 acres or more to a single outfall point, a sediment basin(s) or equivalent measures shall be used and designed for the 2 year, 24 hour storm.

For projects which drain into an impaired or exceptional state water, the erosion and sediment control devices shall be designed for the 5 year, 24 hour storm and a sediment basin or equivalent measures shall be used for drainage areas of 5 acres or more to a single outfall point.

All, or as much as possible, of the offsite surface water flowing toward the construction or development area shall, to the extent possible, be diverted around the disturbed area by using berms, channels, or other measures as necessary. Limiting the amount of runoff, especially concentrated runoff, from flowing through the construction site can be extremely helpful in preventing or significantly reducing sediment runoff. Under no circumstances, unless a drainage easement is obtained, may diverted offsite runoff be redirected onto other offsite properties or to a different location on the offsite property or be diverted onto an offsite property's existing drainage way in a manner that would cause additional harm to the property.

If a detention pond is to be used initially as a temporary sediment basin, then appropriate details and notes shall be provided showing how the pond will increase the residence time of the sediment laden water and when and how the sediment basin is to be converted to a permanent detention pond. Typically this conversion occurs once the upland drainage area to the pond has been stabilized. The sequence of construction shall state when these activities are to take place.

The use of earth berms/dikes, swales, sediment traps, outlet structures, and sediment basins are strongly encouraged over the use of silt fence and straw bales for long term projects and where concentrated runoff is present.

All disturbed areas that will not be disturbed again within 14 days shall be temporarily or permanently stabilized with seed, mulch, and/or other appropriate measures within 14 days of grading or clearing operations ceasing. It is very important that disturbed soil be stabilized as soon as possible to prevent sediment runoff. For slopes 3:1 or steeper, they must be temporarily or permanently stabilized within 7 days of grading ceasing on those slopes.

(14.) A stone construction exit per the Tennessee Sediment Control Handbook shall be provided for all construction ingress/egress points for all construction projects including single lot construction. This is required in order to prevent mud, sediment, and debris from entering Washington County streets and public ways. Mud, sediment, and debris brought onto streets and public ways must be removed by the end of the day by machine, broom or shovel to the satisfaction of the Zoning Administrator. Failure to remove said sediment, mud or debris shall be deemed a violation of this resolution.

It is the Developer's responsibility to prevent sediment from leaving the construction site and this includes sediment leaving the site by way of runoff flowing out the entrance or by vehicular tires carrying the sediment onto the streets. If there is runoff flowing down the construction exit to the street, a mountable stone berm or equivalent measures shall be used to direct the runoff to sediment control devices adjacent to the exit. The use of smaller stone or gravel than shown on the above mentioned construction exit detail shall not be used.

(15.) Proposed structures; location and identification of any proposed additional building, structures or development on the site.

(16.) Any on-site measures to be taken to recharge a portion of the surface water in to the ground water system through infiltration, if appropriate for the site.

(17.) The Plan must have the seal of the design professional responsible for creating the Plan. The stamped and signed Plan, if approved, shall be copied and be the official Plan that must be available in the field during construction.

(18.) Show all existing and proposed drainage easements. Proposed drainage easements shall be shown on construction drawings as well as the recorded final plat. Proposed drainage easements shall be provided where, swales, ditches, storm drains, or other conveyance devices on a lot or property will carry concentrated offsite stormwater through the lot or property.

513.7. Plan must contain measures to meet approved standards. The Stormwater Plan shall contain measures that will ensure development, construction, or site work will meet or exceed the following standards:

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

(2.) Plans for development and construction shall seek to minimize cut and fill operations to the extent possible.

(3.) During development and construction, adequate protective measures shall be provided to minimize damage from surface water to the cut face of excavations or the sloping surfaces of fills. Fills shall not encroach upon natural water courses, their flood plains; or constructed channels in a manner so as to adversely affect other properties.

(4.) Pre-construction vegetation ground cover shall not be removed, destroyed, or disturbed prior to obtaining a Grading Permit. Perimeter sediment controls shall be in place prior to the start of clearing or grading operations.

(5.) Developers shall be responsible upon completion of land disturbing activities to leave slopes and developed or graded areas so that they will not erode. Such methods include, but are not limited to, re-vegetation, mulching, rip-rapping or gunniting, and retaining walls. Bank cuts and fills should preferably be 3 to 1 slopes or flatter, however, they shall not exceed a 2 to 1 slope without waiver from the planning commission and must be properly covered stabilized. Regardless of the method used, the objective is to leave the site as erosion and maintenance free as is practical.

Provisions are implemented that accommodate any increase in stormwater runoff generated by the development in a manner in which the pre development levels of

runoff for the two (2) and ten (10) year storm events are not increased during and following development and construction. The Planning Commission reserves the right to require stormwater management to maintain pre development levels of runoff for the 25, 50 or 100-year storm event if a known flooding problem exists downstream.

Any stormwater detention or retention pond shall also be designed to pass the post development 100 year storm (peak attenuation to the 100 year pre development rate is not required) through the pond without overtopping any portion of the dam. This can be accomplished through the principal spillway or an emergency spillway or using both. The emergency spillway shall be installed on virgin soil and is not to be placed on fill material or the dam. If it is not feasible to place the emergency spillway on virgin soil then the principal spillway shall be designed for the 100 year storm.

(7.) All grading, vegetation, drainage, stormwater, erosion and sedimentation control mitigation measures shall conform to the State of Tennessee's current Construction General Permit, when applicable, and their current Erosion and Sediment Control Handbook

(8.) All perimeter sediment control devices such as construction exits, earth berms/dikes, swales, silt fence, sediment basins, sediment traps, and other perimeter stormwater measures shall be installed in conjunction with initial work and must be in place and functional prior to the initial grading operations. These measures must be maintained throughout the development process. Sediment basins and/or sediment traps may be temporary, but shall not be removed until its drainage area is stabilized.

(9.) It is strongly encouraged to maintain existing trees because they significantly contribute to reducing stormwater runoff.

(10.) A permanent undisturbed buffer shall be provided from the top of bank along both sides of streams except as necessary for the crossing of the stream for installation of utilities, development of roads, or construction of outfalls for stormwater facilities, related drainage improvements and for removal of invasive species to enhance the existing buffer. These utility, road, and stormwater outfall disturbances shall be designed to minimize disturbance and impact on the stream and its buffers. Any disturbance to a stream or wetland requires an Aquatic Resource Alteration permit through the State of Tennessee. During construction, a 30' average (15' minimum) undisturbed buffer or equivalent measures, shall be provided from the top of the stream bank. If the stream is a siltation or streamside habitat impaired stream or Exceptional Water of the State, the undisturbed buffer during construction is increased to a 60' average (30' minimum) or equivalent measures. **The buffer widths are based on the drainage area to the point along the stream where the buffer is being determined:**

(a) For drainage areas less than 1 square mile, the buffer is 30 feet.

(b) For drainage areas 1 square mile or more, the buffer is 60 foot average with a 30 foot minimum width. To use the 60-foot average, 30-foot minimum method, it must be shown

that the straight 60-foot width would be a hardship to developing the property and may not be based solely on the difficulty or the cost of implementation.

If it is not practical to provide the required buffer or only a portion of the buffer can be provided, approval through the Washington County Stormwater Board of Appeals must be obtained. Justification for this variance must be made in accordance with the Stormwater Board of Appeals criteria.

(11.) Soil and other materials shall not be temporarily or permanently stored in locations, which would cause suffocation of root systems of trees intended to be preserved. Stockpiled soils shall have silt fencing or other sedimentation control measures surrounding, and shall be located away from street, curbs and drainage ways to prevent sediment from getting into local waters, streets, public ways, and offsite properties.

(12.) Land shall be developed to the extent possible in increments of workable size. Erosion and sediment control measures shall be coordinated with the sequence of construction, development and construction operations. Control measures such as berms, interceptor ditches, terraces, and sediment and silt traps shall be put into effect prior to any next stage of development.

(13.) The permanent vegetation shall be installed on areas of the construction site that are outside of the building area, pad or footprint, as soon as utilities are in place and final grades are achieved. Without prior approval of an alternate plan by the Planning Commission, permanent or temporary soil stabilization must be applied to disturbed areas outside of the building pad or footprint within fourteen (14) days from substantial completion of grading, or where these disturbed areas outside the building site will remain unfinished for more than fourteen (14) calendar days. The building area should be stabilized with a concrete pad or the footprint covered with gravel.

(14.) Stormwater management facilities and drainage structures shall, where possible, use natural topography and natural vegetation. In lieu thereof, these structures shall have planted trees and vegetation such as shrubs, perennials, and/or permanent ground cover on their borders, except no woody vegetation such as trees and shrubs shall be planted on dam areas or within 25 feet of the dam or the riser. Plant varieties shall be those sustainable in a drainage way environment or as may be outlined in Best Management Practices.

(15.) In many situations stormwater management facilities and drainage structures need to be fenced in order to protect public safety. It is the developer's/property owner's responsibility to determine if fencing is appropriate and the size and type. When fencing is provided, the following specifications are encouraged:

(a) Height minimum of forty-two (42) inches.

(b) For residential areas and high visibility commercial areas, the fencing could be split rail with black or green vinyl coated wire attached, or some other type of attractive fencing.

For commercial and industrial uses, the fencing could be chain link up to 6' tall if the fencing is not visible from residential zoned or used property or a public right of way. Under no circumstances may barbed wire be used.

(c) A lockable access gate of a minimum width of 12 feet must be provided to allow access by equipment and machinery as needed for maintenance.

(d) An adequate access road to the gate sufficient for maintenance vehicles and equipment.

(16.) Washington County wishes to minimize the negative effects of development on our environment, on our economy, and on our health while at the same time reducing development costs for the developers and maintenance costs for the Town and the developer. All efforts should be utilized to implement site design and non-structural stormwater management practices to reduce and minimize runoff in new development. Efforts to enhance infiltration, passage or movement of water into the soil surface, reduction of hard surfaces, minimizing the concentration of runoff, and lengthening of the time of concentration should be a priority.

The following BMPs and stormwater credits can be applied to the peak and water quality stormwater calculations thereby reducing the size and cost of the stormwater BMPs:

(a) Natural area conservation

The preservation of forest, wetlands, pasture land, and other sensitive areas of existing vegetation thereby retaining pre-development hydrologic and water quality characteristics. If these areas are undisturbed and placed in a recorded protective easement, these areas may be subtracted from the total site area when calculating water quality volume. The post development curve numbers for these areas can be modeled as forest in good condition.

(b) Disconnection of rooftop runoff

Rooftop runoff that is disconnected from another impervious surface and directed over a pervious area will infiltrate into the soil or be filtered by the surface material. The longer the flow path of the water from the pipe across vegetated areas, the greater the filtering and infiltration of the run-off which in turn improves water quality and reduces downstream run-off.

If the lot is graded to disperse the rooftop runoff as sheet flow through at least 50' of thick grass or other thick vegetation or through at least 25' of existing woodlands, 50% of the rooftop impervious area draining through the vegetation may be modeled as grass in good condition when calculating the post development curve number. If reforestation or planted landscape beds equal in area to 50% of the rooftop area is placed in the path of the disconnected rooftop runoff,

then the remaining 50% of the rooftop impervious area may be modeled as grass in good condition when calculating the post development curve number.

If the rooftop runoff is discharged into a properly designed and constructed bio-retention facility/rain garden onsite, 100% of the rooftop impervious area draining to the device may be modeled as grass in good condition when calculating the post development curve number.

In addition, under both conditions listed above, the total impervious area in the water quality calculations may be reduced relative to the impervious area reduction associated with the curve number credit.

If downspouts need to be piped away from building foundations to prevent damage to the foundations, the pipes must outfall at least ten (10) feet, preferable further, from any property line. If the downspouts are piped and the runoff cannot disperse in accordance with the above requirements, no stormwater credit is available.

Disconnection of non-rooftop impervious runoff

Rooftop runoff that is disconnected from another impervious surface and directed over a pervious area will infiltrate into the soil or be filtered by the surface material. The longer the flow path of the water across vegetated areas, the greater the filtering and infiltration of the runoff which in turn improves water quality and reduces downstream runoff.

Discharging run-off from impervious surfaces onto pervious surfaces through the use of pervious pavers, permeable paving surfaces, rain gardens/bio-retention facilities, grassed swales, use of open road sections in lieu of curbed roads, and by grading the site so that run-off travels from an impervious surface to a pervious surface before being collected in a drainage system. All of these increase filtering and infiltration of stormwater before the flows become concentrated and this in turn improves water quality and reduces downstream run-off which means pipes, swales, ditches, and stormwater facilities can be smaller.

Avoid sending run-off from one impervious surface directly onto another impervious surface. Place pervious surfaces between impervious surfaces along the run-off path.

If the site is graded to disperse the impervious runoff as sheet flow through at least 50' of thick grass or other thick vegetation or through at least 25' of existing woodlands, 50% of the impervious area draining through the vegetation may be modeled as grass in good condition when calculating the post development curve number. If the impervious runoff is discharged into a properly designed and constructed bio-retention facility/rain garden onsite, 100% of the impervious area draining to the device may be modeled as grass in good condition when calculating the post development curve number.

Sheet flow

Maintain sheet flow for as long as possible before the run-off has to be collected in a stormwater conveyance system. Sheet flow increases infiltration and lengthens the time of concentration which in turn improves water quality and reduces run-off downstream. Spread out concentrated flows created by the development before they are discharged offsite using stilling basins, level spreaders, directing run-off through woodlands, or other means so the run-off returns to pre-development characteristics to meet the adequacy of outfall provision of this ordinance and to improve water quality and reduce run-off downstream.

(e) Grass channels in lieu of piping or hard surface channels.

Environmentally sensitive development

Maintaining/not disturbing environmentally sensitive areas such as streams, stream buffers, existing woodlands, existing steep slopes, wetlands, etc., the reduction of cut and fill, excavating, etc. and the appropriate balance of buildings and parking on the development site.

(g) Improvements to and the reduction in the impervious areas on the development site. Design parking lots with the minimum amount of hard surface required to meet the zoning regulations. If additional parking area is desire, the Town strongly encourages the employee and/or overflow parking areas to be constructed in a more pervious material than asphalt or concrete. If the parking regulations require excessive parking for your type of development, discuss the issue with the County Staff. If the County Staff feels a reduction in the number of required parking spaces is justified, a variance can be submitted to the Board of Zoning Appeals to reduce the parking requirements which in turn will reduce the amount of impervious surface installed.

(h) Increased use of trees, shrubs and ground cover, which absorb up to 14 times more rainwater than grass and require less maintenance.

(17.) Neighboring persons and property shall be protected from damage or loss resulting from an increase in stormwater runoff above the pre development rate, soil erosion, or the deposit upon private property, public streets or right-of-ways of silt and debris transported by water from construction, excavating, grading, etc. associated with a development.

(18.) **For drainage areas of 10 acres or more to a single outfall (5 acres or more if draining to siltation or stream-side habitat alteration impaired or exceptional waters of the state), a site assessment by the design professional who prepared the plans shall be performed within 1 month of grading or clearing operations starting to verify the installation, functionality and performance of all erosion and sediment control measures on the plans and in the SWPPP. Any issues shall be addressed immediately and the plans and SWPPP updated, if applicable."**

513.8. Permit application: In addition to the Stormwater Plan, applications for a Grading Permit involving land disturbing activities must include the following:

(1.) Name of applicant.

(2.) Business or residence address of applicant.

(3.) Name and address of owner(s) of property involved in activity.

(4.) Address and legal description of property.

(5.) Name, address and state license number of contractor, if different from applicant, and to the extent possible any subcontractor(s) who shall undertake the land disturbing activity and who shall implement the Stormwater Plan.

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

(7.) Proposed schedule for starting and completing project.

For projects that require a SWPPP, a Notice of Intent application and all applicable fees shall also be submitted to Washington County. If the Stormwater Plan and SWPPP are approved, a Notice of Coverage, which is the construction stormwater permit, will be issued. The Notice of Coverage, SWPPP, and other required documents shall be posted onsite and/or available in accordance with the State of Tennessee's current Construction General Permit.

513.9. Plan development at Developer's expense. All Stormwater Plans shall be developed and presented at the expense of the owner/developer.

513.10. Plan submitted to Zoning Administrator: Four (4) copies of the Stormwater Plan and a copy of SWPPP narrative, when applicable, shall be submitted directly to the Zoning Administrator who will direct a copy to any other Enforcement Officer or department. Any insufficiencies and violations determined by the Zoning Administrator and other Enforcement Officer(s) shall be noted and comments will be directed back to the Applicant/Developer. The Plan will then be revised as required prior to being presented to the Planning Commission.

513.12. Plan review. The Planning Commission shall review Stormwater Plans as quickly as possible while still allowing for a thorough evaluation of the problems and mitigation measures identified and addressed.

513.14. Zoning Administrator may require additional protective measures. The Zoning Administrator has the authority, at his/her discretion, to require ground cover or other remediation measures preventing stormwater, erosion and sediment run-off, if either determines, after construction begins, that the plan and/or implementation schedule approved by the Planning Commission does not adequately provide the protection intended by this Resolution and the plan approved by the Planning Commission. Additional protective measures required by the Zoning Administrator are subject to appeal under the procedures outlined in Subsection 513.23 of this Section.

Improperly maintained stormwater management facilities and drainage structures a violation.

The Zoning Administrator or designee shall periodically monitor and inspect the care, maintenance and operation of stormwater management facilities and drainage structures during and after construction and development.

All on-site stormwater management facilities and drainage structures shall be properly maintained by the owner/developer during all phases of construction and development so that they do not become a nuisance. Nuisance conditions shall include: improper storage resulting in uncontrolled run-off and overflow; stagnant water with concomitant algae growth, insect breeding, and odors; discarded debris; and safety hazards created by the facilities operation. When problems occur during any phase of construction and development, it is the responsibility of the developer to make the necessary corrections. Corrective actions will be monitored and inspected by an Enforcement Officer.

Facilities found to be a nuisance are in violation of the resolution and are subject to fines up to $5,000 per day with each additional day considered a separate violation.

513.16. Zoning Administrator responsible for providing safeguards in projects less than one acre. Projects undertaken within the limits of Washington County that are not subject to review and approval of the Planning Commission shall fall under the responsibility of the Zoning Administrator or Enforcement Officers to insure that measures consistent with this Section are utilized to protect the health and safety of general public and to protect the quality of surface water. The Zoning Administrator or Enforcement Officers shall require reasonable drainage and erosion and sedimentation control measures as part of the grading permit process. Under no conditions shall the developer/contractor of a property allow silt or sedimentation to enter drainage ways or adjoining properties, or allow stormwater flows to adversely impact adjoining properties. Denuded areas, cuts, and slopes in areas outside the building site shall be properly covered within the same schedule as directed in Subsection 513.6 (13) of this Section.

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

(1.) Denuded areas still existing upon adoption of this resolution must be vegetated or covered under the standards and guidelines specified in the Best Management Practices adopted by the Board of County Commissioners, and on a schedule acceptable to the Zoning Administrator or Enforcement Officers.

(2.) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.

(3.) Drainage ways shall be properly covered in vegetation or secured with stones, etc. to prevent erosion.

(4.) Junk, rubbish, etc. shall be cleared of drainage ways to prevent possible contaminate, pollution, and flooding.

(5.) Stormwater runoff in commercial areas, office or medical facilities, may need to be controlled to the extent reasonable to prevent pollution of local waters. Such control measures may include, but not be limited to, the following:

(a.) stormwater management facilities.

(b.) Planting and/or sowing of vegetation and other nonstructural measures.

(c.) Rip-rapping, mulching, and other similar erosion control measures associated with local drainage ways.

513.18. Improvements needed at existing locations/developments determined by the Zoning Administrator. Improvements needed to provide drainage and sediment control in existing and completed developments shall be determined by the Zoning Administrator or Enforcement Officers. The Zoning Administrator or Enforcement Officers may evaluate existing developments, parking areas, site work and drainage ways to determine if additional measures are needed to protect the health and safety and water quality. Recommendations shall be:

(1.) Provided in writing to the property/business owner.

(2.) Detailed as to specific actions required and why these actions are necessary.

(3.) Made with a reasonable period of time for implementation.

(4.) Enforcement Officer may, but is not required, take the recommendations to the Planning Commission for review and approval, if deemed necessary by the Zoning Administrator.

(5.) The recommendations made by the Zoning Administrator or Enforcement Officer may be appealed to the Stormwater Appeals Board for administrative review in accordance with Subsection 513.1.

513.19. Improvements required with existing developments subject to appeal. Improvements required by the Enforcement Officers as outlined in Subsection 513.18 of this Section are subject to appeal by the property/business owners to the Stormwater Appeals Board as specified in Subsection 513.23.

513.20. Monitoring, reports, and inspections: The Zoning Administrator, shall make at least monthly inspections, during construction and development, of the land disturbing activities, the stormwater management system installations, and other activities requiring a grading permit to ensure compliance with the approved plan and Best Management Practices. Inspections will evaluate whether the measures required in the Stormwater Plan and/or grading permit and undertaken by the

Developer are effective in controlling erosion. The right of entry to conduct such inspections shall be expressly reserved in the permit.

As a minimum, the owner/operator of any construction project which requires a Stormwater Plan is required to perform twice weekly inspections, separated by at least 72 hours, of their erosion and sediment control devices and to perform required maintenance in a timely manner. If the construction project requires a SWPPP, the owner/operator shall perform twice weekly inspections, site assessments, maintenance of devices, and documentation in accordance with the State of Tennessee's current Construction General Permit.

For drainage areas of 10 acres or more to a single outfall (5 acres or more if draining to siltation or stream-side habitat alteration impaired or exceptional waters of the state), a site assessment by the design professional who prepared the Stormwater Plan shall be performed within 1 month of grading or clearing operations starting to verify the installation, functionality and performance of all erosion and sediment control measures on the plans and in the SWPPP. Any issues shall be addressed immediately and the plans and SWPPP updated, if applicable

If the Zoning Administrator determines that the permit holder has failed to comply with plan approval, the following procedures shall apply:

1. A Notice from the Zoning Administrator or Enforcement Officer shall be served on the permit holder either by registered or certified mail, delivered by hand to the permit holder or an agent or employee of the permittee supervising the activities, or by posting the notice at the work site in a visible location, that the permit holder is in Non-Compliance.

2. The Notice of Non-Compliance shall specify the measures needed to comply and shall specify the time within which such corrective measures shall be completed. The Zoning Administrator or Enforcement Officer shall require a reasonable period of time for the permittee to implement measures bringing the project into compliance; however, if it is determined by the Zoning Administrator or Enforcement Officer that health and safety factors or the damage resulting from being non-compliant is too severe, immediate action may be required.

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

4. In conjunction with the issuance of a Notice of Non-Compliance, or subsequent to the permittee not completing the corrective measures directed in the time period required, the Zoning Administrator or designee, may issue an Order requiring all or part of the land disturbing activities on the site are stopped. The Stop Work Order may be issued with or as part of the Notice of Non-Compliance, or may be delivered separately in the same manner as directed in Subsection 513.20(1).

513.21. Certificate of Occupancy not issued until approvals. The Zoning Administrator or designee will not issue a Certificate of Occupancy necessary to

occupy any commercial or residential establishment until all aspects of the Stormwater Plan including stormwater management facilities have been completed and all control devices constructed have been approved and accepted.

513.22. Grading Permit Security. No grading permit shall be issued until a security in the form of a Performance Bond, Irrevocable Letter of Credit, or Cash deposit is posted in the amount determined to be reasonable by the Zoning Administrator for work associated with the Stormwater Plan including stabilization, stormwater conveyance, and stormwater management. A project cost summary for the items mentioned above must accompany the application so that it can be used to help determine the bond amount. The security may not be higher than an amount equal to the estimated cost of the improvements, and said security shall only be released by the Zoning Administrator following completion of construction and acceptance of the grading, stabilization, stormwater conveyance, stormwater management, and erosion and sediment control measures. The security shall be made out to Washington County, If after eight (8) months from the start of construction it appears that the Stormwater Plan activities approved by the Planning Commission will not be implemented within a twelve (12) month period, the Zoning Administrator, at his/her discretion after a Notice of Non-Compliance has been properly issued and the Developer has failed to comply, may cash or utilize said security to stabilize the site from erosion or any portion of the Stormwater Plan activities it deems necessary to protect the health and safety of residents and to protect the quality of local waters. Upon the posting of the security, the Developer must sign and have notarized an approved certification granting permission for any Stormwater Plan activities to be made on the property in case of default. The Zoning Administrator may waive the requirement for a security for work in which the land disturbing activities are very minimal and are similar to single lot residential development.

513.23. Appeal of administrative action. Actions taken by the Zoning Administrator or Enforcement Officer as authorized in this Resolution are subject to appeal to the Stormwater Appeals Board provided an appeal is timely filed in writing at the office of the Zoning Administrator within thirty (30) days from the date any written or verbal decision has been made which the Developer feels adversely affects the Developer's rights, duties or privileges to engage in the land disturbing activity and/or associated development proposed.

513.24. County clean-up resulting from violations at Developer's/Owner's expense. County staff are authorized at any time during construction and development to take remedial actions to prevent, clean-up, repair or otherwise correct situations in which water, sediment rock, vegetation, etc. ends up on public streets and/or right-of-ways resulting from violations of this resolution; where necessary drainage erosion and sedimentation control measures have not been properly implemented. In such cases, the cost of labor, equipment, and materials used will be charged to the Developer/Owner in addition to a service charge of $100.00 per hour. The County will invoice the Developer/Owner directly, and payment shall be received within fourteen (14) days. Failure to pay for remedial actions taken by the County under this Section may result in the County Attorney filing a lien against the property involved in the action, and may negate any intention by the County to accept responsibility for any drainage and sediment control facilities.

The decision of the County to take remedial actions to protect the health and safety of the public in no way supplants or negates the authority of the appropriate County Staff to issue citations for violations of this Resolution.

513.25. Illicit discharge and illegal dumping.

The owner/operator if the site or project must design, install, implement, and maintain effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented, and maintained to:

Minimize the discharge of pollutants from equipment and vehicle washing, wheel washwater, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;

Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater; and

Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.

The following discharges are prohibited from construction sites:

Wastewater from washout of concrete, unless managed by an appropriate control.

Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials

Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance.

Soaps or solvents used in vehicle and equipment washing

513.26. Penalties; Enforcement. Any Developer or person who shall commit any act declared unlawful under this Article, who violates any provision of this Article, who violates the provisions of any permit issued pursuant to this Article, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by any authorized Enforcement Officer or the Planning Commission, shall be guilty of a violation of this resolution, and each day of such violation or failure to comply shall be deemed a separate offense and punishable accordingly. Upon conviction, the Developer or person shall be subject to fines of up to $5000.00 for each offense per Tenn. Code Ann.§68-221-1101. Unless otherwise specified within any section of this Article, the Zoning Administrator is the designated Enforcement Officer of this resolution. Citations for violations may be issued by any Enforcement Officer, Sheriff or deputy of the Sheriff.

513.26.1 Notice of Violation.

In the event that the Director determines that a violation of any provision of this chapter has occurred, or that work does not have a required plan or permit, or that work does not comply with an approved plan or permit, the Director may issue a Notice of Violation to the permittee or property owner and, or any other person or entity having responsibility for construction work performed at a site development. Issuance of a Notice of Violation either written or oral, of the provisions of the County Stormwater Management Ordinance or of the policies required by this manual shall be cause for the issuance of a stop work order, withholding of a permit approval or certificate of occupancy, and, or civil penalties and, or damage assessments.

513.26.2 Stop Work/Cease and Desist Orders

When the SWC finds that any person has violated or continues to violate this ordinance or any permit or order issued hereunder, the Director may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

(1) Comply forthwith;

(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;

(3) Including noncompliance with the approved Water Quality Management Plan during grading and construction activities. Under no circumstance is the owner or operator of land development activities allowed to deviate from the approved Water Quality Management Plan without prior approval of a plan amendment by the Stormwater Administrator.

The approved Water Quality Management Plan shall be amended if the proposed site conditions change after plan approval is obtained, or if it is determined by the Stormwater Administrator during the course of grading or construction that the approved plan is inadequate.

If in the judgment of the Washington County Storm Water Coordinator there exists an immediate danger to the public's life or property or to adjacent private property due to a permitted construction site, a Building/Grading Permit may be immediately suspended and may be revoked upon verbal notification, followed by submission of a certified letter of violation to the owner or authorized representative.

513.26.3 Civil Penalties

Pursuant to TENN. CODE ANN. § 68-221-1106 et seq., the County has the authority to impose a civil penalty of not less than fifty dollars ($50.00) or more than five thousand dollars ($5,000) per day for each day of a violation. Damage assessments are determined based on any reasonable expenses incurred in investigating and enforcing violations of this part, or any other actual damages caused by the violation. The County Stormwater Management Ordinance states detailed requirements and authority with regards to civil penalties and damage assessments.

513.26.4 Civil Penalty Calculations

In order to assess the amount of a civil penalty that is to be levied against individuals and organizations that violate storm water program regulations, it is necessary to evaluate the damages that have resulted from the specific violation. Specific assessment categories will be used to evaluate environmental damages are based on TENN. CODE ANN. § 68-221-1106(b), which states:

In assessing a civil penalty, the following factors may be considered:

(1) The harm done to the public health or the environment;
(2) Whether the civil penalty imposed will be substantial economic deterrent to the illegal activity;
(3) The economic benefit gained by the violator;
(4) The amount of effort put forth by the violator to remedy this violation;
(5) Any unusual or extraordinary enforcement costs incurred by the municipality;
(6) The amount of penalty established by ordinance or resolution for specific categories of violations; and
(7) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

In addition to the civil penalty in 513.26.3 above, the County may also assess damages proximately caused by the violator to the County which may include any reasonable expenses incurred in investigating and enforcing violations of this part, or any other actual damages caused by the violation.

Each assessment category will be based on a scale of 1 to 10, with 1 representing the best case and 10 representing the worst case. The total score from each category will be added to create a final civil penalty score, which will determine the per day penalty to be assessed.

The SWC will assign all values based on BPJ. The civil penalty assessment policies and procedures may be altered or changed to better fit specific circumstances and situations. Any changes will be made based on the BPJ of the Washington County Storm Water Coordinator. Values for civil penalty calculations shall follow the criteria listed in 513. 26. 7.1.

513.26.5 Routine Violations

Civil penalties for routine violations of the Washington County Storm Water Management Regulations will be assessed on a "per occurrence" basis if the offense is corrected within a reasonable time frame as determined by the Washington County Storm Water Coordinator (usually 24 to 72 hours). If the offense is not corrected in the time frame determined by the Washington County Storm Water Coordinator, the "per occurrence" civil penalty amount will be assessed for each day that the offense continues, calculated from the date of the initial Notice of Violation.

The following Civil Penalties shall be imposed on a new single residential lot development for storm water regulation violations:

- Failure to install or maintain erosion controls - $250.00 per occurrence
- Illicit Discharge - $500.00 per occurrence
- Allowing sediment to leave a construction site - $250.00 per occurrence
- Water Quality Buffer Incursion - $250.00 per occurrence
- Unauthorized drainage course modifications - $250.00 per occurrence

The following shall be imposed upon single family residential developments or more than 1 lot and multi-family development for storm water regulation violations:

- Failure to install or maintain erosion controls - $500.00 per occurrence
- Illicit Discharge - $1,000.00 per occurrence
- Failure to obtain a grading permit - double all permitting fees or $1000.00, whichever is greater, per occurrence
- Allowing sediment to leave a construction site - $250.00 per occurrence
- Water Quality Buffer Incursion - $250.00 per occurrence
- Unauthorized drainage course modifications - $500.00 per occurrence

The following shall be imposed upon commercial and industrial developments for storm water regulation violations:

- Failure to install or maintain erosion controls - $500.00 per occurrence
- Illicit Discharge - $1,000.00 per occurrence
- Failure to obtain a grading permit - double all permitting fees or $1000.00, whichever is greater, per occurrence
- Allowing sediment to leave a construction site - $250.00 per occurrence
- Water Quality Buffer Incursion - $250.00 per occurrence
- Unauthorized drainage course modifications - $500.00 per occurrence

The following shall be imposed on a vacant lot or on a single lot with an existing structure(s) for storm water regulation violations:

- Unauthorized drainage course modifications - $250.00 per occurrence
- Water Quality Buffer Incursion - $250.00 per occurrence
- Illicit Discharge - $500.00 per occurrence
- Allowing sediment to leave a construction site - $250.00 per occurrence
- Failure to maintain storm water facility - $250.00 per occurrence

The Storm Water Coordinator shall have authority to recover administrative expenses incurred in investigating violations of, and enforcing compliance with, the storm water program regulations, or any other actual damages to the County caused by the violation.

513.26.6 Civil Penalty Calculations in Cases of Environmental Damage

In order to assess the amount of a civil penalty that is to be levied against individuals and organizations that violate storm water program regulations, it is necessary to evaluate the damages that have resulted from the specific violation.

Each assessment category will be based on a sliding scale of one (1) to ten (10), with one (1) representing the best case and ten (10) representing the worst case. The total score from each category will be added to create a final civil penalty score, which will determine the per day penalty to be assessed.

The SWC will assign all civil penalty values based on BPJ. The civil penalty assessment policies and procedures may be altered or changed to better fit specific circumstances and situations. Any changes will be made based on the BPJ by the SWC. Values for each assessment category will be based on Table 1: Assessment Criteria.

Each assessment category will be based on a scale of one (1) to ten (10), with one (1) representing the best case and ten (10) representing the worst case. The

total score from each category will be added to create a final civil penalty score, which will determine the per day penalty to be assessed.

Pursuant to TENN. CODE ANN. § 68-221-1106(c), the County may also may also assess reasonable expenses incurred in investigating and enforcing violations of the Stormwater enforcement code, or any other actual damages caused by the violator.

513.26.6.1 ASSESSMENT SCORING
Table 1: Assessment Criteria

	1	2.5	5	7.5	10
Human Impact (HAZMAT Scale)	**Minimal** Essentially non-toxic	**Slight** Exposure may cause irritation but only minor residual injury even without medical treatment	**Moderate** Intense or prolonged exposure could cause temporary effects or possible residual injury unless prompt medical treatment is given	**Serious** Short or moderate exposure could cause serious temporary or residual injury, even with prompt medical treatment	**Extreme** Very short Exposure to could cause death or major residual injury, even with prompt medical treatment
Environ-mental Impact	Little/No Harm	Aquatic life leaves area	Few invertebrates die	Several invertebrates die	Significant multi-species kill
Clean up Efforts	Remediation/ clean-up efforts were timely and effective or, no measures were required	Clean-up /remediation efforts were timely but partially ineffective	Clean-up /remediation efforts were mostly ineffective	Clean-up /remediation efforts were completely ineffective	No action taken to perform required clean-up or remediation
Notification of Agencies	Appropriate Agencies are notified or not applicable	Failed to notify one or more critical agencies inadvertently	Inadvertent failure to notify any agencies	Intentional failure to notify one or more agencies in a timely manner	Deliberate attempt to conceal or intentional failure to notify

Table 1 Notes:

a) For Environmental and Human Impacts:

1) Reference materials such as MSDS sheets, textbooks, etc. may be used if necessary.

2) Environment and Human values will be based on the BPJ of the Storm Water Coordinator, while taking into consideration the effects the material discharged has on the environment and humans respectively with the advisement of the Washington County Emergency Management Director.

b) For Quantity Values (See Chart 2):

1) If the Human or Environmental Impact value in Section 1 is greater than 4, then the "total gallons" scale is to be used to quantify the spill or discharge.

2) If the Human or Environmental Impact value in Section 1 is less than or equal to 4, then the "discharge rate" scale is to be used to quantify the spill or discharge.

c) The Long Lasting Effects value will be based on BPJ of the Storm Water Coordinator, taking into consideration the effect the discharged material has on the environment over time, and/or the magnitude of damage done to the environment and its ability to recover.

d) The Notification of Agencies value will be based on the BPJ of the Strom Water Coordinator based on the following:

1) If it was required in a previous NOV issued to the site.

2) The Discharge was a "reportable quantity" as required by State or Federal guidelines.

3) It posed either a threat to human health or significant impact to the environment.

e) The clean-up efforts value will be based on the BPJ of the SWC on the effectiveness of required remediation and, or housekeeping and clean-up efforts.

f) Violations refer to violations that resulted in fines.

g) Economic benefit gained by the violator shall be evaluated based on the BPJ of the SWC, as part of the Previous Violations Section.

The per-day civil penalty to be assessed for a violation will be based on Chart 1: Civil Penalty Based on Penalty Scores.

Chart 1: Penalty amount based on Calculation of Civil Penalties.

Penalty Score Range	Per-Day Fine	Penalty Score Range	Per-Day Fine
0-4	$50	27-32	$1,500
5-9	$100	33-38	$2,000
10-14	$250	39-43	$3,000
15-20	$500	44-47	$4,000
21-26	$1,000	48-50	$5,000

Chart 2: Quantity of Discharge or Area Effected Rating Scale

Quantity of Discharge (a) or Area Effected (b or c)				
(a) Non-Construction Related		(b) Development	(c) Construction Site	
Discharge Rate (Gal/Min)	Total Gallons	Acreage	Acreage	Rating

0-10	0-1	1	1	1
11-20	1-5	2-3	2	2
21-30	6-10	4-6	3	3
31-40	11-20	7-10	4	4
41-50	21-30	11-15	5	5
51-60	31-50	16-20	6	6
61-70	51-100	21-30	7	7
71-80	101-1000	31-40	8	8
81-90	1001-5000	41-50	9	9
>90	>5000	>50	10 or >	10

513.26.7 Appeals.

The Stormwater Appeals Board has been established to hear appeals of decisions of the SWC related to compliance with the Storm Water Management Resolution and MS4 management policies, procedures and regulations. This shall include appeal of actions used by the SWC to enforce compliance with the provisions of the Storm Water Management Program Regulations. Notice shall be served upon the alleged violator either by personal service or certified mail. A request for an appeal must be made within thirty (30) days after the date of notice. The appeal must be filed with the Zoning Administrator. The appeal shall be heard before the Stormwater Appeals Board at its next regularly scheduled meeting following receipt of appeal. If a timely appeal is not received by the Board, the violator shall be deemed to have consented to the damage assessment or civil penalty and it shall become final. If the alleged violator is dissatisfied with the decision of the Board, the alleged violator may appeal the decision of the Board pursuant to TENN. CODE ANN. § 27-8-101. Said appeal must be made within thirty (30) days after the decision of the board.

Whenever a civil penalty or damage assessment has become final due to a failure to appeal or final judgment, the County may apply to the appropriate court for a judgment and seek execution. The County will treat a failure to appeal as a confession of judgment.

513.26.8 Storm Water Fund.

All funds generated by or on behalf of the Washington County Storm Water Management Program from the following sources shall be deposited in a storm water fund and used exclusively to offset operations and expenses of and for the storm water program:

a) Civil penalties and damage assessments imposed for or arising from the violation of the County's Storm Water Management Regulations.
b) Damages proximately caused to the county by the violation of the County's storm water management regulations
c) Other funds or income obtained from federal, state, local, and private grants, or revolving funds, and from the Local Government Public Obligations Act of 1986, TENN. CODE ANN. § 9-21-101 *et seq.*
d) Fees collected as the result of the creation of a storm water utility or storm water user fee.

513.26.9 Severability

Each separate provision of this ordinance is deemed independent of all other provisions herein so that if any provision of this or provisions of this ordinance shall be deemed invalid, all other provisions thereof shall remain enforceable.

If any provisions of this ordinance and any other provisions of law impose overlapping or contradictory regulations, or contain any restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards or requirements shall govern.

513.27. Severability. If any provision of this Resolution is held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect any other provision of this Resolution.

SECTION 2. This Resolution shall take effect from and after the date on which it is approved by the County Mayor or as indicated by certification of the County Clerk, as hereinafter set forth.

Introduced by Commissioner: *Grandy*
Seconded by Commissioner: *McGuire*
Commissioners Voting FOR Resolution: *Upon a voice vote, a two-thirds (2/3) majority of the entire membership voted to adopt the resolution.*

Commissioners Voting AGAINST Resolution: NONE
Commissioners NOT VOTING: NONE
Commissioners ABSENT: Humphreys

ADOPTED BY THE COUNTY LEGISLATIVE BODY, in session duly assembled, on this the 26th day of May 2015.

Kathy Storey
KATHY STOREY, County Clerk

Greg Matherly
GREG MATHERLY, Chair of the Board

REFERRED to County Mayor this the 8 day of June 2015.

Kathy Storey
KATHY STOREY, County Clerk

APPROVED by County Mayor on this the 17 day of JUNE 2015.

Daniel J. Eldridge
DANIEL J. ELDRIDGE, County Mayor

The County Mayor having declined to approve this Resolution, the same became effective on the ___ day of _____ 2015, pursuant to Tennessee Code Annotated § 5-6-107(b)(5).

Originating Committee: *Zoning Administrator Oversight Committee*
Additional Approving Committee: *Washington County Regional Planning Commission*

KATHY STOREY, County Clerk

Approved as to form by County Attorney on this 29th day of May 2015.

Interim County Attorney