

ORDINANCE 14-28

AN ORDINANCE OF THE CITY OF WHITE HOUSE, TENNESSEE, TO ESTABLISH TITLE 20 STORMWATER, AND TO DECLARE THIS ORDINANCE'S RELEVANCE TO SECTION 4-105 OF ARTICLE 4 OF THE ZONING ORDINANCE, AND RENUMBER THE CURRENT TITLE 20 MISCELLANEOUS AS TITLE 21.

WHEREAS, for the purpose of promoting the public health, safety, comfort, convenience, and general welfare of the people of White House, Tennessee the Board of Mayor and Aldermen is authorized to prescribe regulations and standards that encourage and advance the quality of life within the City; and

WHEREAS, in the legislative judgment of the Board of Mayor and Aldermen the Board has found that ordinances and policies that regulate land use, guide the maintenance of the City's infrastructure, and deliver essential services must be dynamic and modified from time to time to reflect changes in best practices, model codes, land and labor costs, and safety standards necessary to preserve and promote the private and public interest; and

WHEREAS, the Board of Mayor and Aldermen has decided to create a separate title in the White House Municipal Code for the purpose of managing stormwater within the City, entitled Title 20 – Stormwater; and

WHEREAS, currently the regulations for managing stormwater within the City are primarily included in the Subdivision Regulations, Article 4 – **Requirements for Improvements, Reservations, and Designs** as Section 4-106; and

WHEREAS, with the creation of Title 20 Stormwater it is necessary to declare paramount the regulations in Title 20 for all developments in the municipality at-large for managing stormwater within the City and not within the Section 4-106 of the White House Subdivision Regulations, and any such discrepancy between the two regulations shall be as defined in this ordinance which is the more strict of the two; and

WHEREAS, with the creation of Title 20 Stormwater it is necessary to rename the current Title 20 – Miscellaneous to Title 21.

TITLE 20
STORMWATER

CHAPTER

1. STORMWATER MANAGEMENT.
2. STORMWATER UTILITY.
3. STORMWATER ADVISORY BOARD.

CHAPTER 1

STORMWATER MANAGEMENT

SECTION

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20-101. General provisions.

- (1) Purpose. It is the purpose of this chapter to:
 - (a) Protect, maintain, and enhance the environment of the City and the public health, safety and the general welfare of the citizens of the City, by controlling discharges of pollutants to the City's stormwater system and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the City;
 - (b) Enable the City to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR 122.26 for stormwater discharges;
 - (c) Allow the City to exercise the powers granted in Tennessee Code Annotated § 68-221-1105, which provides that, among other powers cities have with respect to stormwater facilities, is the power by ordinance or resolution to:
 - (i) Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the City, whether or not owned and operated by the City;
 - (ii) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;
 - (iii) Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality;
 - (iv) Review and approve plans and plats for stormwater management in proposed subdivisions or commercial developments;
 - (v) Issue permits for stormwater discharges, or for the construction, alteration, extension, or repair of stormwater facilities;
 - (vi) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;
 - (vii) Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and
 - (viii) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private.
- (2) Administering entity. The City's Public Services Director shall administer the provisions of this chapter.
- (3) Stormwater management ordinance. The intended purpose of this ordinance is to safeguard property and public welfare by regulating stormwater drainage and requiring temporary and permanent provisions for its control. It should be used as a planning and engineering implement to facilitate the necessary control of stormwater.

20-102. Jurisdiction.

- (1) The Stormwater Management Ordinance (Title 20) shall govern all properties within the corporate limits of the City of White House, Tennessee.
- (2) Exemptions from article. The following Development activities shall be exempt from the provisions of this chapter and requirements of providing Stormwater management:
 - (a) Agricultural land management activities.
 - (b) Additions or modifications to existing detached single-family dwellings that disturb less than 5,000 square feet of additional land use.
 - (c) Developments that do not disturb more than 5,000 square feet of land use. This exception may not be applied for contiguous properties that may have been subdivided and/or are attributed to multiple separate owners. This exemption does not apply to any discharge of sediment or other form of water pollution that may leave a small site.

20-103. Definitions. For the purpose of this chapter, the following definitions shall apply: Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word “shall” is mandatory and not discretionary. The word “may” is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster’s Dictionary.

- (1) “Active Channel” means the portion of the stream Channel that is subject to frequent flows (approximately once every two (2) years) and the portion of the Channel below the Floodway.
- (2) “Active Construction Sites” means any Site that has a permit for Grading or other activities (even if actual construction is not proceeding) and any Site where construction is occurring regardless of permits required.
- (3) “Administrative or Civil Penalties.” Under the authority provided in Tennessee Code Annotated § 68-221-1106, the City declares that any person violating the provisions of this chapter may be assessed a civil penalty by the City of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.
- (4) “As-built plans” means drawings depicting conditions as they were actually constructed.
- (5) “Base Flood” means the Flood having a one percent (1%) chance of being equaled or exceeded in any given year. While this statistical event may occur more frequently, it may also be known as the “100-Year Flood Event.”
- (6) “Best Management Practices” (“BMP’s”) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the state. BMP’s also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
- (7) “Borrow Pit” is an excavation from which erodible material (typically soil) is removed to be fill for another site. There is no processing or separation of erodible material conducted at the site. Given the nature of activity and pollutants present at such excavation, a borrow pit is considered a construction activity for the purpose of this permit.
- (8) “Buffer Zone” means a setback from the top of a watercourse’s bank of undisturbed vegetation, including trees, shrubs and herbaceous vegetation; enhanced or restored vegetation; or the re-establishment of native vegetation bordering streams, ponds, wetlands, springs, reservoirs or lakes, which exists or is established to protect those water bodies. The goal of the water quality buffer is to preserve undisturbed vegetation that is native to the watercourse habitat in the area of the project. Vegetated, preferably native, water quality buffers protect water bodies by providing structural integrity and canopy cover, as well as stormwater infiltration, filtration and evapotranspiration. Buffer width depends on the size of a drainage area. Streams or other waters with drainage areas less than 1 square mile will require buffer widths of 30 feet minimum. Streams or other waters with drainage areas greater than 1 square mile will require buffer widths of 60 feet minimum. The 60-foot criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than 30 feet at any measured location. Every attempt should be made for development and redevelopment activities not to take place within the buffer zone. A determination that water quality buffer widths cannot be met on site may not be based solely on the difficulty or cost of implementing measures, but must include multiple criteria, such as: type of project, existing land use and physical conditions that preclude use of these practices.
- (9) “Buffer Zone Requirements”
 - (a) “Construction” applies to all watercourses adjacent to construction sites, with an exception for streams designated as impaired or Exceptional Tennessee waters, as designated by the Tennessee Department of Environment and Conservation. A 30-foot natural riparian buffer zone adjacent to all jurisdictional water features at the construction site shall be preserved, to the maximum extent practicable, during construction activities at the site. The water quality buffer zone is required to protect waters of the state located within or immediately adjacent to the boundaries of the project, as identified using methodology from Standard Operating Procedures for Hydrologic Determinations (see rules to implement a certification program for Qualified Hydrologic Professionals, TN Rules Chapter 0400-40-

17). Buffer zones are not primary sediment control measures and should not be relied on as such. Rehabilitation and enhancement of a natural buffer zone is allowed, if necessary, for improvement of its effectiveness of protection of the waters of the state. The buffer zone requirement only applies to new construction sites. The riparian buffer zone should be preserved between the top of stream bank and the disturbed construction area. The 30-foot criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than 15 feet at any measured location.

(b) Buffer zone requirements for discharges into impaired or exceptional waters:

A 60-foot natural riparian buffer zone adjacent to the receiving stream designated as impaired or exceptional waters shall be preserved, to the maximum extent practicable, during construction activities at the site. The water quality buffer zone is required to protect waters of the state (e.g., perennial and intermittent streams, rivers, lakes, wetlands) located within or immediately adjacent to the boundaries of the project, as identified on a 7.5-minute USGS quadrangle map, or as determined by the director. Buffer zones are not sediment control measures and should not be relied upon as primary sediment control measures. Rehabilitation and enhancement of a natural buffer zone is allowed, if necessary, for improvement of its effectiveness of protection of the waters of the state. The buffer zone requirement only applies to new construction sites. The riparian buffer zone should be established between the top of stream bank and the disturbed construction area. The 60-foot criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than 25 feet at any measured location.

(c) “Permanent” new development and significant redevelopment sites are required to preserve water quality buffers along waters within the MS4. Buffers shall be clearly marked on site development plans, Grading Permit applications, and/or concept plans. Buffer width depends on the size of a drainage area. Streams or other waters with drainage areas less than 1 square mile will require buffer widths of 30 feet minimum. Streams or other waters with drainage areas greater than 1 square mile will require buffer widths of 60 feet minimum. The 60-foot criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than 30 feet at any measured location.

- (10) “Channel” means a natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.
- (11) “Common plan of development or sale” is broadly defined as any announcement or documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot. A common plan of development or sale identifies a situation in which multiple areas of disturbance are occurring on contiguous areas. This applies because the activities may take place at different times, on different schedules, by different operators.
- (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. The estimated design rainfall amounts, for any return period interval (i.e., 2-yr, 5-yr, 25-yr, etc.,) in terms of either 24-hour depths or intensities for any duration, can be found by accessing the following NOAA National Weather Service Atlas 14 data for Tennessee: http://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html?bkmrk=tn. Other data sources may be acceptable with prior written approval by the City Engineer.
- (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, City 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 human activities or effects.
- (17) "Erosion prevention and sediment control plan (EPSCP)" means a written plan (including drawings or other graphic representations) that is designed to minimize the erosion and sediment runoff at a site during construction activities.
- (18) "Flood or Flooding" means water from a river, stream, watercourse, lake, or other body of standing water that temporarily overflows and inundates adjacent lands and which may affect other lands and activities through increased surface water levels and/or increased groundwater level.
- (19) "Floodplain" means the relatively flat or lowland area adjoining a river, stream, watercourse, lake, or other body of standing water, which has been or may be covered temporarily by Floodwater. For purposes of this Title, the Floodplain is defined as the 100-year Floodplain having a one percent (1%) chance of being equaled or exceeded in any given year.
- (20) "Floodway" means that portion of the stream Channel and adjacent Floodplain required for the passage or conveyance of a 100-year Flood discharge. The Floodway boundaries are placed to limit encroachment in the Floodplain so that a discharge can be conveyed through the Floodplain without materially increasing (less than one (1) foot) the water surface elevation at any point and without producing hazardous velocities or conditions. This is the area of significant depths and velocities and due consideration should be given to effects of Fill, loss of cross sectional flow area, and resulting increased water surface elevations.
- (21) "Floodway Fringe" means that portion of the Floodplain lying outside the Floodway.
- (22) "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. The following land uses and activities are deemed stormwater hot spots, but that term is not limited to only these land uses:
 - (a) vehicle salvage yards and recycling facilities
 - (b) vehicle service and maintenance facilities
 - (c) vehicle and equipment cleaning facilities
 - (d) fleet storage areas (bus, truck, etc.)
 - (e) industrial sites (included on Standard Industrial Classification code list)
 - (f) marinas (service and maintenance)
 - (g) public services storage areas
 - (h) facilities that generate or store hazardous waste materials
 - (i) commercial container nursery
 - (j) restaurants and food service facilities
 - (k) other land uses and activities as designated by an appropriate review authority
- (23) "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.
- (24) "Illicit discharge" means any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under §20-108(2).
- (25) "Impervious Surface" means a term applied to any ground or structural surface that water cannot penetrate or through which water penetrates with great difficulty.
- (26) "Improved sinkhole" is a natural surface depression that has been altered in order to direct fluids into the hole opening. An Improved sinkhole is a type of injection well regulated under TDEC's Underground Injection Control (UIC) program. Underground injection constitutes an intentional disposal of waste waters in natural depressions, open fractures, and crevices (such as those commonly associated with weathering of limestone).

- (27) “Inspector” An inspector is a person that has successfully completed (has a valid certification from) the “Fundamentals of Erosion Prevention and Sediment Control Level I” course or equivalent course. An inspector performs and documents the required inspections, paying particular attention to time-sensitive permit requirements such as stabilization and maintenance activities. An inspector may also have the following responsibilities:
- (a) oversee the requirements of other construction-related permits, such as Aquatic Resources Alteration Permit (ARAP) or a Corps of Engineers permit for construction activities in or around waters of the state;
 - (b) update field SWPPP’s;
 - (c) conduct pre-construction inspection to verify that undisturbed areas have been properly marked and initial measures have been installed; and
 - (d) inform the permit holder of activities that may be necessary to gain or remain in compliance with the Construction General Permit (CGP) and other environmental permits.
- (28) “Intermittent Stream” means streams that have flowing water under normal weather conditions. During the dry season and throughout minor drought periods, these streams will not exhibit flow. Geomorphologic characteristics are not well defined and are often inconspicuous. In the absence of external limiting factors (pollution, thermal modifications, etc.) biology is scarce and adapted to the wet and dry conditions of the fluctuating water level.
- (29) “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.
- (30) “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.
- (31) “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.
- (32) “Municipal separate storm sewer system (MS4)” means the conveyances owned or operated by the City 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, and where the context indicates, it means the municipality that owns the separate storm sewer system.
- (33) “National Pollutant Discharge Elimination System permit” or a “NPDES permit” means a permit issued pursuant to 33 U.S.C. 1342.
- (34) “Off-site facility” means a structural BMP located outside the subject property boundary described in the permit application for land development activity.
- (35) “On-site facility” means a structural BMP located within the subject property boundary described in the permit application for land development activity.
- (36) “Peak flow” means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.
- (37) “Perennial Stream” means streams that have flowing water continuously recharged by groundwater or surface runoff regardless of weather conditions. It exhibits well defined geomorphologic characteristics and in the absence of pollution, thermal modifications, or other man-made disturbances has the ability to support aquatic life. During hydrological drought conditions, the flow may be impaired.

- (38) “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.
- (39) “Riparian Zone” means areas adjacent to river, lakes, ponds, streams, and other natural Water Resources with a differing density, diversity, and productivity of plant and animal species relative to nearby uplands. This zone provides a transition from an aquatic ecosystem to a terrestrial ecosystem.
- (40) “Runoff” means that portion of the precipitation on a drainage area that is discharged from the area into the municipal separate storm sewer system.
- (41) “Sediment” means solid material, both inorganic 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.
- (42) “Sedimentation” means soil particles suspended in stormwater that can settle in stream beds.
- (43) “Sediment Control Measure” (SCM) means any structural or nonstructural strategy, practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.
- (44) “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 conducting the investigation.
- (45) “Stabilization” means providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.
- (46) “Stormwater” means stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.
- (47) “Stormwater Coordinator” means the entity designated by the City to administer the stormwater management ordinance under the Public Services Director, and other stormwater rules and regulations adopted by the City.
- (48) “Stormwater management” means the programs to maintain quality and quantity of stormwater runoff to pre-development levels.
- (49) “Stormwater management facilities” means the drainage structures, conduits, ponds, ditches, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed of.
- (50) “Stormwater management plan” means the set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMP’s, concepts and techniques intended to maintain or restore quality and quantity of stormwater runoff as prescribed by the ordinance.
- (51) “Stormwater Pollution Prevention Plan (SWPPP)” means a written plan that includes site map(s), an identification of construction/contractor activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants. It must be prepared and approved before construction begins. In order to effectively reduce erosion and sedimentation impacts, Best Management Practices (BMP’s) must be designed, installed, and maintained during land disturbing activities. The SWPPP should be prepared in accordance with the current Tennessee Erosion and Sediment Control Handbook. The handbook is intended for use during the design and construction of projects that require erosion and sediment controls to protect waters of the state. It also aids in the development of SWPPPs and other reports, plans, or specifications required when participating in Tennessee’s water quality regulations. All SWPPP’s shall be prepared and updated in accordance with Section 3 of the General NPDES Permit for Discharges of Stormwater Associated with Construction Activities.
- (52) “Stormwater runoff” means flow on the surface of the ground, resulting from precipitation.
- (53) “Structural BMP’s” means facilities that are constructed to provide control of stormwater runoff.

- (54) "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.
- (55) "Waste site" means an area where waste material from a construction site is deposited. When the material is erodible, such as soil, the site must be treated as a construction site.
- (56) "Water Quality Buffer" see "Buffer".
- (57) "Watercourse" means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.
- (58) "Watershed" means all the land area that contributes runoff to a particular point along a waterway.
- (59) "Waters" or "waters of the state" means any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through, or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine or effect a junction with natural surface or underground waters.
- (60) "Wetland(s)" means 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.
- (61) "Wet weather conveyances" are 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 are not suitable for drinking water supplies; and in which hydrological and biological analyses indicate that, under normal weather conditions, due to naturally occurring ephemeral or low flow, there is not sufficient water to support fish or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two months. (Rules and Regulations of the State of Tennessee, Chapter 1200-4-3-.04(3)).

20-104. Waivers.

- (1) General. No waivers will be granted on any construction or site work project. All construction and site work shall provide for stormwater management as required by this ordinance. However, alternatives to the latest NPDES General Permit for Discharges from Small Municipal Separate Storm Sewer Systems primary requirement for on-site permanent stormwater management may be considered, if:
 - (a) Management measures cannot be 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 measurable precipitation. This first inch of rainfall must be 100% managed with no discharge to surface waters.
 - (b) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this chapter. Alternative minimum requirements for on-site management of stormwater discharges shall be established in a stormwater management plan that has been approved by the City.
- (2) Adverse downstream conditions prohibited. In order to receive consideration, the applicant must demonstrate to the satisfaction of the City Engineer that the proposed alternative will not lead to any of the following conditions downstream:
 - (a) Deterioration of existing culverts, bridges, dams, and other structures;
 - (b) Degradation of biological functions or habitat;
 - (c) Accelerated streambank or streambed erosion or siltation;
 - (d) Increased threat of flood damage to public health, life or property.
- (3) Grading permit not to be issued where alternatives requested. No grading permit shall be issued where an alternative has been requested until the alternative is approved. If no alternative is approved, the plans must be resubmitted with a stormwater management plan that meets the primary requirement for on-site stormwater management.

20-105. Stormwater system requirements and implementation: Construction and Permanent stormwater management.

(1) MS4 Stormwater BMP manuals.

- (a) Adoption. The City adopts as its MS4 stormwater design and best management practices (BMP) manuals, further written as MS4 BMP's, for stormwater management, construction and permanent, the following publications, which are incorporated by reference in this ordinance as if fully set out herein:
 - i. TDEC Erosion Prevention and Sediment Control Handbook; most current edition.
 - ii. TDEC Permanent Stormwater Management Manual; most current edition.
 - iii. The Nashville-Davidson County Metro Stormwater Management Manual (BEST MANAGEMENT PRACTICES (BMP) MANUAL - Volume 4); most current edition.
 - iv. The Nashville-Davidson County Metro Stormwater Management Manual (Low Impact Development - Volume 5); most current edition.
- (b) The City's BMP manual(s) include a list of acceptable BMP's including the specific design performance criteria and operation and maintenance requirements for each stormwater practice. These include City approved BMP's for permanent stormwater management including green infrastructure BMP's.
- (c) The City manual(s) may be updated and expanded from time to time, at the discretion of the governing body of the City, upon the recommendation of the Stormwater Coordinator or City Engineer, based on improvements in engineering, science, monitoring and local maintenance experience, or changes in federal or state law or regulation. Stormwater 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) Submittal of a copy of the NOC, SWPPP and NOT to the local MS4. Permittees who discharge stormwater through an NPDES-permitted municipal separate storm sewer system (MS4) who are not exempted in section 1.4.5 (Permit Coverage through Qualifying Local Program) of the Construction General Permit (CGP) must provide proof of coverage under the Construction General Permit (CGP); submit a copy of the Stormwater Pollution Prevention Plan (SWPPP); and at project completion, a copy of the signed notice of termination (NOT) to the Stormwater Coordinator. Permitting status of all permittees covered (or previously covered) under this general permit as well as the most current list of all MS4 permits is available at the TDEC's DataViewer web site.

Any discharge of stormwater or other fluid to an improved sinkhole or other injection well, as defined, must be authorized by permit or rule as a Class V underground injection well under the provisions of Tennessee Department of Environment and Conservation (TDEC) Rules, Chapter 1200-4-6.

Copies of additional applicable local, state or federal permits (i.e.: ARAP, TMSP, etc.) must also be provided upon request. If requested, these permits must be provided prior to the issuance of any permit or other equivalent construction authorization.

- (3) Stormwater Pollution Prevention Plan (SWPPP) for Construction Stormwater Management: The applicant must prepare a stormwater pollution prevention plan for all construction activities that complies with subsection (4) below. The purpose of this plan is to identify construction/contractor activities that could cause pollutants in the stormwater, and to describe measures or practices to control these pollutants during project construction.
- (4) Stormwater Pollution Prevention Plan requirements. The erosion prevention and sediment control plan component of the SWPPP shall accurately describe the potential for soil erosion and sedimentation problems resulting from land disturbing activity and shall explain and illustrate the measures that are to be taken to control these problems. The length and complexity of the plan is to be commensurate with the size of the

project, severity of the site condition, and potential for off-site damage. If necessary, the plan shall be phased so that changes to the site during construction that alter drainage patterns or characteristics will be addressed by an appropriate phase of the plan. The plan shall be sealed by a registered professional engineer or landscape architect licensed in the state of Tennessee. The plan shall also conform to the requirements found in the MS4 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) A topographic map with contour intervals of five (5) feet or less showing present conditions and proposed contours resulting from land disturbing activity.
- (c) All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or flood plains from FEMA information and/or flood studies.
- (d) A general description of existing land cover. Individual trees and shrubs do not need to be identified.
- (e) Stands of existing trees as they are to be preserved upon project completion, specifying their general location on the property. Differentiation shall be made between existing trees to be preserved, trees to be removed and proposed planted trees. Tree protection measures must be identified, and the diameter of the area involved must also be identified on the plan and shown to scale. Information shall be supplied concerning the proposed destruction of exceptional and historic trees in setbacks and buffer strips, where they exist. Complete landscape plans may be submitted separately. The plan must include the sequence of implementation for tree protection measures.
- (f) Approximate limits of proposed clearing, grading and filling.
- (g) Approximate flows of existing stormwater leaving any portion of the site.
- (h) A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.
- (i) Location, size and layout of proposed stormwater and sedimentation control improvements.
- (j) Existing and proposed drainage network.
- (k) Proposed drain tile or waterway sizes.
- (l) Approximate flows leaving site after construction and incorporating water run-off mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The plan must address the adequacy of outfalls from the development: when water is concentrated, what is the capacity of waterways, if any, accepting stormwater off-site; and what measures, including infiltration, sheeting into buffers, etc., are going to be used to prevent the scouring of waterways and drainage areas off-site, etc.
- (m) The projected sequence of work represented by the grading, drainage and sedimentation and erosion control plans as related to other major items of construction, beginning with the initiation of excavation and including the construction of any sediment basins or retention/detention facilities or any other structural BMP's.
- (n) 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.

- (o) Specific details for: the construction of stabilized construction entrance/exits, concrete washouts, and sediment basins for controlling erosion; road access points; eliminating or keeping soil, sediment, and debris on streets and public ways at a level acceptable to the City. Soil, sediment, and debris brought onto streets and public ways must be removed by the end of the work day to the satisfaction of the City. Failure to remove the sediment, soil or debris shall be deemed a violation of this ordinance.
 - (p) Proposed structures: location and identification of any proposed additional buildings, structures or development on the site.
 - (q) A description of on-site measures to be taken to recharge surface water into the ground water system through runoff reduction practices.
 - (r) Specific details for construction waste management. Construction site operators shall control waste such as discarded building materials, concrete truck washout, petroleum products and petroleum related products, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality. When the material is erodible, such as soil, the site must be treated as a construction site.
- (5) General design performance criteria for permanent stormwater management: the following performance criteria shall be addressed for permanent stormwater management at all development sites:
- (a) Site design standards for all new construction and redevelopment 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 measurable precipitation. This first inch of rainfall must be 100% managed with no discharge to surface waters.
 - (b) Limitations to the application of runoff reduction requirements include, but are not limited to:
 - i. Where a potential for introducing pollutants into the groundwater exists, unless pretreatment is provided;
 - ii. Where pre-existing soil contamination is present in areas subject to contact with infiltrated runoff;
 - iii. Presence of sinkholes or other karst features.
 - (c) Pre-development infiltrative capacity of soils at the site must be taken into account in selection of runoff reduction management measures.
 - (d) Incentive Standards for re-developed sites: a 10% reduction in the volume of rainfall to be managed for any of the following types of development. Such credits are additive such that a maximum reduction of 50% of the standard in the paragraph above is possible for a project that meets all 5 criteria:
 - i. Redevelopment;
 - ii. Brownfield redevelopment;
 - iii. High density (>7 units per acre);
 - iv. Vertical Density, (Floor to Area Ratio (FAR) of 2 or >18 units per acre); and
 - v. Mixed use and Transit Oriented Development (within ½ mile of transit).
 - (e) 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 documented to remove 80% total suspended solids (TSS) unless an alternative provided under this ordinance is approved. The treatment technology must be designed, installed and maintained to continue to meet this performance standard.

- (f) For projects that cannot meet 100% of the runoff reduction requirements, the Stormwater Coordinator 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 and within the City's MS4 jurisdiction. 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 12-digit HUC) and runoff reduction measures must be approved by the Stormwater Coordinator. The Stormwater Coordinator shall identify priority areas within the watershed in which mitigation projects can be completed. The Stormwater Coordinator will have an inventory of appropriate mitigation projects, and develop appropriate institutional standards and management systems to value, evaluate and track transactions. Mitigation can be used for retrofit or redevelopment projects, but should be avoided in areas of new development.
 - (g) To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the MS4 BMP manual.
 - (h) Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.
 - (i) Stormwater discharges from hot spots may require the application of specific structural BMP's and pollution prevention practices. In addition, stormwater from a hot spot land use may not be infiltrated.
 - (j) Prior to or during the site design process, applicants for land disturbance permits shall consult with the Stormwater Coordinator to determine if they are subject to additional stormwater design requirements.
 - (k) The calculations for determining peak flows as found in the MS4 BMP manual shall be used for sizing all stormwater facilities.
- (6) Minimum volume control requirements. in accordance with 20-101(1)(c)(iii) the MS4 establishes standards to regulate the quantity of stormwater discharged, therefore:
- (a) Stormwater designs shall meet the multi-stage storm frequency storage requirements as identified in the MS4 BMP manual. Stormwater Detention facilities shall be designed to address the rate at which flow is released over the entire runoff discharge period and the volume of discharge per Rational Method, SCS Tr-55 Method, or USGS Regional Regression Equations. The appropriate method shall be applied using 2-, 5-, 10-, 25-, 50- and 100-year design-storm events. Typically, 24-hour duration events will be required, but designers are encouraged to consider other critical design storm events for comparison. Alternative methods of hydrologic analysis may be used with prior written approval by the City of White House Engineer.
 - (b) If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the City Engineer may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.
 - (c) New Developments shall also meet a Stormwater quantity level of service defined by:
 - i. Designing road catch basins and connecting Culverts to convey the 10-year design-storm runoff.
 - ii. Designing Bridges, Culverts, Channels and Cross-Drains to pass at a minimum the 25-year design-storm runoff.
 - iii. Designing Bridges, Culverts, Channels and Cross Drains to pass the 50-year design-storm runoff for flows greater than or equal to 5,000 cfs.
- (7) Floodplains. Floodplain Alterations or Filling shall not cause a net decrease in Flood Storage capacity below the projected One-Hundred Year Flood elevation unless it is shown that the proposed Alteration or Filling will not cause an increase in the high water level, increase velocities, or aggravate Flooding on other

properties and will not unduly restrict Flood flows. Compensatory Cut shall at least be applied in equal amounts (1:1) for all Fill in the Flood Plain. Compensatory Cut shall at least be applied to one hundred fifty-percent (150%) (1.5:1) for all Fill in Floodplains with waterway reaches determined to be impacted by localized Flooding not dominated by waterway backwater effects, as determined by studies accepted or performed by the City. Floodplain may be used for application of water quality devices. This may only be permitted provided EP&SC, water quality, and Cut-Fill policies are adequately addressed as determined by the City according to the provisions in Section 20-111 of this Title. Detention/retention volumes in the Floodplain shall count as Fill if applied in a manner where Floodplain storage is lost. This section shall in no way provide justification on any level for waiver or modification of buffer zone requirements as stated in other sections of this ordinance.

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

- (a) Topographic base map: Topographic base map of the site which extends a minimum of 100 feet beyond the limits of the proposed development and indicates:
 - i. Existing surface water drainage including streams, ponds, culverts, ditches, sink holes, wetlands; and the type, size, elevation, etc., of nearest upstream and downstream drainage structures;
 - ii. Current land use including all existing structures, locations of utilities, roads, and easements;
 - iii. All other existing significant natural and artificial features;
 - iv. 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.
- (b) Proposed structural and non-structural BMP's;
- (c) A written description of the site plan and justification of proposed changes in natural conditions may also be required;
- (d) Calculations: Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in the MS4 BMP manual. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this chapter and the guidelines of the MS4 BMP manual. Such calculations shall include:
 - i. A description of the design storm frequency, duration, and intensity where applicable;
 - ii. Time of concentration;
 - iii. Soil curve numbers or runoff coefficients including assumed soil moisture conditions;
 - iv. Peak runoff rates and total runoff volumes for each watershed area;
 - v. Infiltration rates, where applicable;
 - vi. Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;
 - vii. Flow velocities;
 - viii. Data on the increase in rate and volume of runoff for the design storms referenced in the MS4 BMP manual; and
 - ix. Documentation of sources for all computation methods and field test results.

- (e) Soils information: If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs, 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.
- (f) Maintenance and repair plan. The design and planning of all permanent stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.
- (g) Maintenance easements. The applicant shall ensure access to the site for the purpose of inspection and repair by securing all the maintenance easements needed. These easements shall be binding on the current property owner and all subsequent owners of the property and shall be properly recorded with the appropriate Sumner or Robertson County Register of Deeds in perpetuity.
- (h) Maintenance agreements. Where the stormwater facility is located on property that is subject to a development agreement, and the development agreement provides for a permanent stormwater maintenance agreement that runs with the land, the owners of property must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owners and all subsequent property owners and their lessees and assigns, including but not limited to, homeowner associations or other groups or entities. The maintenance agreement shall:
 - i. Assign responsibility for the maintenance and repair of the stormwater facility to the owners of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.
 - ii. Provide for a periodic inspection by the property owners in accordance with the requirements of subsection (5) below for the purpose of documenting maintenance and repair needs and to ensure compliance with the requirements of this ordinance. The property owners will arrange for this inspection to be conducted by a registered professional engineer licensed to practice in the State of Tennessee, who will submit a signed written report of the inspection to the Stormwater Coordinator. It shall also grant permission to the City to enter the property at reasonable times and to inspect the stormwater facility to ensure that it is being properly maintained.
 - iii. Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, cutting and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other stormwater facilities. It shall also provide that the property owners shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the MS4 BMP manual.
 - iv. Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the Stormwater Coordinator.
 - v. Provide that if the property is not maintained or repaired within the prescribed schedule, the Stormwater Coordinator 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 Stormwater Coordinator's cost of performing the maintenance shall be a lien against the property.
- (i) The City of White House shall have the discretion to accept the dedication of any existing or future stormwater 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 stormwater facility accepted by the City of White House must also meet the city's construction standards and any other standards and specifications that apply to the particular stormwater facility in question.

(9) Buffers and buffer zones. Buffer and buffer zones shall be those buffers and buffer zones as those terms are defined in 20-103 (7) and (8), above, and shall meet the requirements contained in those provisions.

(a) Construction

- i. Construction requires buffer zone widths of a minimum of thirty (30) feet. The thirty (30) foot criterion for the width of the buffer zone can be established on an average width basis. As long as the minimum width of the buffer zone is fifteen (15) feet. The buffer zone shall meet all the other applicable requirements of 20-103 (5) and (6).
- ii. Construction on impaired or exceptional waters. The width of the buffer zone shall be a minimum of sixty (60) feet. The sixty (60) feet criterion for the width of the buffer zone can be established on an average basis at a project as long as the minimum width of the buffer is more than thirty (30) feet at any measured location. The buffer zone shall meet all the other applicable requirements of 20-103 (7) and (8).

(b) Permanent

- i. More than one (1) square mile drainage area will require buffer zones of a minimum of sixty (60) feet. The sixty (60) foot criterion for the width of the buffer zone can be established on an average width basis, as long as the minimum width of the buffer zone is more than thirty (30) feet at any measured location.
- ii. Less than one (1) square mile drainage area. Less than one (1) square mile drainage area will require buffer zones of a minimum of thirty (30) feet. The thirty (30) foot criterion for the width of the buffer zone can be established on an average width basis, as long as the minimum width of the buffer zone is more than thirty (30) feet at any measured location. The buffer zone shall meet all the other applicable requirements of 20-103(5) and (6).

20-106. Permanent stormwater management: operation, maintenance, and inspection.

(1) As-built plans. All applicants are required to submit actual as-built plans for any structures located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be sealed by a registered professional engineer licensed to practice in Tennessee and confirm the resultant conditions meet the original design intent and functionality and reveal specifically any differentiation from approved plans. A final inspection by the City is required before any performance security or performance bond will be released. The City shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or performance bond on the completion of various stages of development. In addition, occupation permits shall not be granted until corrections to all BMP's have been made and accepted by the City.

(2) Landscaping and stabilization requirements.

(a) Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall be stabilized. Stabilization measures shall be initiated as soon as possible in portions of the site where construction activities have temporarily or permanently ceased. Temporary or permanent soil stabilization at the construction site (or a phase of the project) must be completed not later than 15 days after the construction activity in that portion of the site has temporarily or permanently ceased. In the following situations, temporary stabilization measures are not required:

- i. where the initiation of stabilization measures is precluded by snow cover or frozen ground conditions or adverse soggy ground conditions, stabilization measures shall be initiated as soon as practicable; or

- ii. where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within 15 days.
 - (b) Permanent stabilization with perennial vegetation (using native herbaceous and woody plants where practicable) or other permanently stable, non-eroding surface shall replace any temporary measures as soon as practicable. Unpacked gravel containing fines (silt and clay sized particles) or crusher runs will not be considered a non-eroding surface.
 - (c) The following criteria shall apply to revegetation efforts:
 - i. Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.
 - ii. Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.
 - iii. Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.
 - iv. In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.
- (3) Inspection of stormwater management facilities. Periodic inspections of facilities shall be performed, documented, and reported in accordance with this chapter, as detailed in §20-107. The owners and/or the operators of stormwater management practices shall abide by any legal maintenance agreement's specific requirements and at a minimum:
 - (a) Perform routine inspections to ensure that the BMP's are properly functioning. These inspections shall be conducted on an annual basis, at a minimum. These inspections shall be conducted by a person familiar with control measures implemented at a site. Owners or operators shall maintain documentation of these inspections. The Stormwater Coordinator may require submittal of this documentation.
 - (b) Perform comprehensive inspection of all stormwater management facilities and practices. These inspections shall be conducted once every five years, at a minimum. Such inspections must be conducted by either a professional engineer or landscape architect, licensed in the State of Tennessee. Complete inspection reports for these five year inspections shall include:
 - i. Facility type,
 - ii. Inspection date,
 - iii. Latitude and longitude and nearest street address,
 - iv. BMP owner information (e.g. name, address, phone number, fax, and email),
 - v. A description of BMP condition including: vegetation and soils; inlet and outlet channels and structures; embankments, slopes, and safety benches; spillways, weirs, and other control structures; and any sediment and debris accumulation,
 - vi. Photographic documentation of BMP's, and
 - vii. Specific maintenance items or violations that need to be corrected by the BMP owner along with deadlines and reinspection dates.

- (c) Owners or operators shall maintain documentation of these inspections. The Stormwater Coordinator will require submittal of this documentation for confirmation of appropriate maintenance.
- (4) Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at least three (3) years. These records shall be made available to the City during inspection of the facility and at other reasonable times upon request.
- (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 chapter, the City, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition.
- (6) Danger to public safety or health. In the event that any stormwater management facility becomes a danger to public safety or public health, the City shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the City may take necessary corrective action. The cost of any action by the City under this section shall be charged to the property owner which shall be paid within 30 days or the City shall take action to place a lien on the subject property.

20-107. Existing locations and ongoing developments.

- (1) Requirements for all existing locations and ongoing developments. The following requirements shall apply to all locations and development at which land disturbing activities have occurred prior to the enactment of this ordinance:
 - (a) Denuded areas must be vegetated or covered under the standards and guidelines specified in 20-106 (2)(c)(i), (ii), (iii) and on a schedule acceptable to the Stormwater Coordinator.
 - (b) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.
 - (c) Drainage ways shall be properly covered in vegetation or secured with rip-rap, channel lining, or other approved methods to prevent erosion.
 - (d) Trash, junk, rubbish, etc. shall be cleared from drainage ways.
 - (e) Stormwater runoff shall, at the discretion of the Stormwater Coordinator be controlled to the maximum extent practicable to prevent its pollution. Such control measures may include, but are not limited to, the following:
 - i. Ponds
 - 1. Detention pond
 - 2. Extended detention pond
 - 3. Wet pond
 - 4. Alternative storage measures
 - ii. Constructed wetlands
 - iii. Infiltration systems
 - 1. Infiltration/percolation trench
 - 2. Infiltration basin
 - 3. Drainage (recharge) well
 - 4. Porous pavement

- iv. Filtering systems
 - 1. Catch basin inserts/media filter
 - 2. Sand filter
 - 3. Filter/absorption bed
 - 4. Filter and buffer strips

- v. Open channel
 - 1. Swale

- (2) Requirements for existing problem locations – no maintenance agreement. The Stormwater Coordinator shall in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problems affecting or caused by such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance.
- (3) Inspection of existing facilities. The City may, to the extent authorized by state and federal law, enter and inspect private property for the purpose of determining if there are illicit non-stormwater discharges, and to establish inspection programs to verify that all stormwater management facilities are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the City’s NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMP’s.
- (4) Corrections of problems subject to appeal. Corrective measures imposed by the Stormwater Coordinator under this section are subject to appeal under section 20-111 of this chapter.

20-108. Illicit discharges.

- (1) Scope. This section shall apply to all water generated on developed or undeveloped land entering the City’s separate storm sewer system.
- (2) Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater or any discharge that flows from stormwater facility that is not inspected in accordance with section 20-107 shall be an illicit discharge. Illicit discharges are defined above in section 20-103 and further consist of non-stormwater discharges including, but shall not be limited to, sanitary wastewater, car wash wastewater, radiator flushing disposal, spills from roadway accidents, carpet cleaning wastewater, effluent from septic tanks, improper oil disposal, laundry wastewater/gray water, improper disposal of auto and household toxics. The commencement, conduct or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited except as exempted as follows:

- (a) Uncontaminated discharges from the following sources:
 - i. Water line flushing or other potable water sources;
 - ii. Landscape irrigation or lawn watering with potable water;
 - iii. Diverted stream flows;
 - iv. Rising ground water;
 - v. Groundwater infiltration to 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 wetland flows;
- xiii. Swimming pools (if dechlorinated - typically less than one PPM chlorine);
- xiv. Firefighting activities;
- xv. Any other uncontaminated water source.

(b) Discharges specified in writing by the City as being necessary to protect public health and safety.

(c) Dye testing is an allowable discharge if the City has so specified in writing.

(d) Discharges authorized by the Construction General Permit (CGP), which comply with Section 3.5.9 of the same:

- i. dewatering of work areas of collected stormwater and ground water (filtering or chemical treatment may be necessary prior to discharge);
- ii. waters used to wash vehicles (of dust and soil, not process materials such as oils, asphalt or concrete) where detergents are not used and detention and/or filtering is provided before the water leaves site;
- iii. water used to control dust in accordance with CGP section 3.5.5;
- iv. potable water sources including waterline flushings from which chlorine has been removed to the maximum extent practicable;
- v. routine external building washdown that does not use detergents or other chemicals;
- vi. uncontaminated groundwater or spring water; and
- vii. foundation or footing drains where flows are not contaminated with pollutants (process materials such as solvents, heavy metals, etc.).

(3) Prohibition of illicit connections. The construction, use, maintenance or continued existence of illicit connections to the municipal separate storm sewer system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(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, shall be required in accordance with applicable laws, 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 in compliance with the provisions of this section. Discharges from existing BMP's that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit.

(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, the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the City in person or by

telephone, fax, or email, no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the City within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

- (6) No illegal dumping allowed. No person shall dump or otherwise deposit outside an authorized landfill, convenience center or other authorized garbage or trash collection point, any trash or garbage of any kind or description on any private or public property, occupied or unoccupied, inside the City.

20-109. Enforcement.

- (1) Enforcement authority. The Stormwater Coordinator shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in summary in this section. Further details on enforcement shall be as defined in the City's Enforcement Response Plan as approved by the BMA. Measures authorized include:

- (a) Verbal Warnings – At a minimum, verbal warnings must specify the nature of the violation and required corrective action.
- (b) Written Notices – Written notices must stipulate the nature of the violation and the required corrective action, with deadlines for taking such action.
- (c) Citations with Administrative Penalties – The MS4 has the authority to assess monetary penalties, which may include civil and administrative penalties.
- (d) Stop Work Orders – Stop work orders that require construction activities to be halted, except for those activities directed at cleaning up, abating discharge, and installing appropriate control measures.
- (e) Withholding of Plan Approvals or Other Authorizations – Where a facility is in noncompliance, the MS4's own approval process affecting the facility's ability to discharge to the MS4 can be used to abate the violation.
- (f) Additional Measures – The MS4 may also use other escalated measures provided under local legal authorities. The MS4 may perform work necessary to improve erosion control measures or eliminate illicit discharges and collect the funds from the responsible party in an appropriate manner, such as collecting against the project's bond or directly billing the responsible party to pay for work and materials.

- (2) Notification of violation:

- (a) Verbal warning. Verbal warning may be given at the discretion of the inspector when it appears the condition can be corrected by the violator within a reasonable time, which time shall be approved by the inspector.
- (b) Written notice. Whenever the Stormwater Coordinator 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 Stormwater Coordinator 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 Stormwater Coordinator. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.
- (c) Consent orders. The Stormwater Coordinator is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to paragraphs (d) and (e) below.

- (d) Show cause hearing. The Stormwater Coordinator may order any person who violates this chapter or permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.
- (e) Compliance order. When the Stormwater Coordinator finds that any person has violated or continues to violate this chapter or a permit or order issued thereunder, he may issue an order to the violator directing that, following a specific time period, adequate structures or devices be installed and/or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.
- (f) Cease and desist and stop work orders. When the Stormwater Coordinator finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder, the Stormwater Coordinator may issue a stop work order or an order to cease and desist all such violations and direct those persons in noncompliance to:
 - i. Comply forthwith; or
 - ii. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation; including halting operations except for terminating the discharge and installing appropriate control measures.
- (g) Suspension, revocation or modification of permit. The Stormwater Coordinator may suspend, revoke or modify the permit authorizing the land development project or any other project of the applicant or other responsible person within the City. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated upon such conditions as the Stormwater Coordinator may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.
- (h) Conflicting standards. Whenever there is a conflict between any standard contained in this chapter, other City ordinances or in the BMP manuals adopted by the City under this ordinance, the strictest standard shall prevail.

20-110. Penalties.

- (1) Violations. Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the Stormwater Coordinator, shall be guilty of a civil offense.
- (2) Penalties. Under the authority provided in Tennessee Code Annotated § 68-221-1106, the City declares that any person violating the provisions of this chapter may be assessed a civil penalty by the City of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation. Further definition of said penalties will be as described in the official City Enforcement Response Plan as approved by the BMA.
- (3) Measuring civil penalties. In assessing a civil penalty, the City may consider:
 - (a) The harm done to the public health or the environment;
 - (b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
 - (c) The economic benefit gained by the violator;

- (d) The amount of effort put forth by the violator to remedy this violation;
 - (e) Any unusual or extraordinary enforcement costs incurred by the City;
 - (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 City may recover:
- (a) All damages proximately caused by the violator to the City, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this chapter, or any other actual damages caused by the violation.
 - (b) The costs of the City's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this chapter.
- (5) Referral to TDEC. Where the City has used progressive enforcement to achieve compliance with this ordinance, and in the judgment of the City has not been successful, the City may refer the violation to TDEC. For the purposes of this provision, "progressive enforcement" shall mean verbal warnings, written notices citations and other measures defined in §20-109 and in the City's Enforcement Response Plan. In addition, enforcement referrals to TDEC must include, at a minimum, the following information:
- (a) Construction project or industrial facility location;
 - (b) Name of owner or operator;
 - (c) Estimated construction project or size or type of industrial activity (including SIC code, if known);
 - (d) 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.
- (6) Other remedies. The City may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.
- (7) 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.

20-111. Appeals. Pursuant to Tennessee Code Annotated § 68-221-1106(d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this chapter may appeal said penalty or damage assessment to the Stormwater Advisory Board.

- (1) Appeals to be in writing. The appeal shall be in writing and filed with the City Recorder within fifteen (15) days after the civil penalty and/or damage assessment is served in any manner authorized by law.
- (2) Public hearing. Upon receipt of an appeal, the City's SWAB established by the City's governing body shall hold a public hearing within thirty (30) days. Ten (10) days prior notice of the time, date, and location of said hearing shall be published in a daily newspaper of general circulation. Ten (10) days' notice by registered mail shall also be provided to the aggrieved party, such notice to be sent to the address provided by the aggrieved party at the time of appeal. The decision of the governing body of the City shall be final.
- (3) Appealing decisions of the City's SWAB. Any alleged violator may appeal a decision of the SWAB pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8.

CHAPTER 2

STORMWATER UTILITY

SECTION

- 20-201. Title and purpose.
- 20-202. Jurisdiction.
- 20-203. Definitions.
- 20-204. Funding of stormwater utility.
- 20-205. Stormwater utility management fund.
- 20-206. Operating budget.
- 20-207. Stormwater user fee established.
- 20-208. Equivalent residential unit (ERU).
- 20-209. Property classification for stormwater user fees.
- 20-210. Base rate.
- 20-211. Property owners to pay charges.
- 20-212. Billing procedures and penalties for late payment.
- 20-213. Appeals of fees.
- 20-214. Stormwater user fee credit policy.
- 20-215. Effective date.

20-201. Title and Purpose. This ordinance shall be known as the "Stormwater Utility Ordinance" for the City of White House, Tennessee.

- (1) **Introduction.** The City of White House finds, determines and declares that the stormwater system, which provides for the collection, treatment, storage and disposal of stormwater, provides benefits and services to all property within the City's MS4 jurisdiction. Such benefits include, but are not limited to: the provision of adequate systems of collection, conveyance, detention, retention, treatment and release of stormwater, the reductions of hazards to property and life resulting from stormwater runoff, improvements in general health and welfare through reduction of undesirable stormwater conditions, and improvements to water quality in the stormwater and surface water system and its receiving waters.
- (2) **Purpose.** In accordance with Tennessee Code Annotated §68-221-1101 et seq., the City of White House desires to develop a Stormwater Utility in order to provide a funding mechanism to operate and maintain the City of White House's Stormwater Management program and finance the necessary stormwater repairs, replacements, improvements, and extensions necessary to protect the health, safety and welfare of the public. The Stormwater Utility purpose is to:
 - (a) Administer and enforce the City of White House Stormwater Management Ordinance;
 - (b) Administer, plan, and implement stormwater projects to protect, maintain, and enhance the environment of the City of White House;
 - (c) Implement activities necessary to maintain compliance with the National Pollutant Discharge Elimination System (NPDES) Permit and applicable regulations, 40 CFR Section 122.26 for stormwater discharges;
 - (d) Annually analyze the cost of services and benefits provided, and the system and structure of fees, charges, civil penalties and other revenues of the utility; and,
 - (e) Advise the BMA and other City of White House departments on matters relating to the utility.
- (3) **Administering entity.** The Stormwater Utility shall be part of the Public Services Department. The Stormwater Utility, under the direction and supervision of the Director of Public Services or his designee, shall administer the provisions of this Stormwater Utility Ordinance as approved by the City Administrator.

20-202. Jurisdiction. The Stormwater Utility Ordinance shall govern all properties within the corporate limits of the City of White House.

20-203. Definitions. For the purpose of this chapter, the following definitions shall apply:

- (1) "Agricultural property" - Property which is zoned agricultural and/or property which yields an annual minimum, and in which the annual minimum has been met in two of the last five years, of \$1,000.00 of agricultural products produced and/or sold from the operation of the property. Agricultural production shall include agricultural, forest, and/or livestock production as defined by the United States Department of Agriculture, Natural Resources Conservation Service, Environmental Quality Incentive Program. Proof of agricultural producer status may include IRS form 1040 Schedule F or other accounting records certified by a tax preparer.
- (2) "Base rate" - The stormwater user fee for a single-family residential property in the City of White House.
- (3) "Best Management Practices" or "BMPs" - The 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 White House, and that have been incorporated by reference into the Stormwater Management Ordinance as if fully set out therein.
- (4) "Construction" - The erection, building, acquisition, alteration, reconstruction, improvement or extension of stormwater facilities; preliminary planning to determine the economic and engineering feasibility of stormwater facilities; the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary in the construction of stormwater facilities; and the inspection and supervision of the construction of stormwater facilities.
- (5) "Deficient property" - Real property that does not have adequate stormwater facilities as required in the latest edition of the City of White House Stormwater Regulations.
- (6) "Developed property" - Real property which has been altered from its natural state by the creation or addition of impervious areas, by the addition of any buildings, structures, pavement or other improvements.
- (7) "Equivalent residential unit" or "ERU" - The average of the total square footage of the impervious surface areas from a representative sample of developed single-family residential property within the City of White House as approved by the BMA.
- (8) "Exempt property" - All public rights-of-way, public streets and public roads, public alleys, public sidewalks and public greenways, public "park and ride" facilities and bus stops within the City of White House. For purposes of this definition, "public" shall mean that which is maintained by or is or is to be dedicated to the City of White House and/or the State of Tennessee or the government of the United States.
- (9) "Fiscal year" - July 1 of a calendar year to June 30 of the next calendar year, both inclusive.
- (10) "Impervious surface" - A surface which is compacted or covered with material that is resistant to infiltration by water, including, but not limited to, most conventionally surfaced streets, roofs, sidewalks, patios, driveways, parking lots, and any other oiled, graveled, graded, compacted, or any other surface which impedes the natural infiltration of surface water.
- (11) "Impervious surface area" - The number of square feet of horizontal surface covered by buildings, and other impervious surfaces.
- (12) "Other developed property" - Developed property other than single-family residential property. Such property shall include, but not be limited to, commercial properties, industrial properties, parking lots, hospitals, schools, recreational and cultural facilities, hotels, offices, and churches. Such property shall also include single-family dwellings that are attached to or otherwise a part of a building housing a commercial enterprise. Any single-family residential structure which contains more than two attached dwelling units is specifically included in this definition.
- (13) "Person" - 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.
- (14) "Property owner" - The property owner of record as listed in the county's tax assessment roll. A property owner includes any individual, corporation, firm, partnership, or group of individuals acting as a unit, and any trustee, receiver, or personal representative.

- (15) "Single-family residential property" - A developed property which serves the primary purpose of providing a permanent dwelling unit to a single family. A single-family detached dwelling, a townhouse, an accessory apartment or second dwelling unit, a duplex, a condominium, a villa, or a garden home is included in this definition. A single-family dwelling which is attached to, or otherwise a part of, a building housing a commercial enterprise is not included in this definition.
- (16) "Stormwater" - Stormwater runoff, snow melt runoff, surface runoff, infiltration, and drainage.
- (17) "Stormwater user fee" or "fee" - The utility service fee established under this ordinance and levied on owners or users of parcels or pieces of real property to fund the costs of stormwater management and of operating, maintaining, and improving the stormwater system in the City of White House. The stormwater user fee is in addition to other fees that the City of White House has the right to charge under any other rule or regulation of the City of White House.
- (18) "Stormwater Utility" - A management structure that is responsible solely and specifically for the stormwater management program and system.
- (19) "Stormwater Utility Management Fund" or "fund" - The fund created by this ordinance to operate, maintain, and improve the City of White House's stormwater system.
- (20) "Stormwater management" - The programs to manage quality and quantity of stormwater runoff.
- (21) "Stormwater system" - The natural or manmade system that collects, conveys, stores, treats or otherwise affects stormwater or surface water.
- (22) "Surface water" - Waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other watercourses, lakes, ponds, wetlands, marshes and sinkholes.
- (23) "User" - The owner or customer of record of property subject to the stormwater user fee imposed by this ordinance.
- (24) "Vacant/undeveloped property" - Property on which there is no structure for which a certificate of occupancy has been issued.

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.

20-204. Funding of stormwater utility. Funding for the Stormwater Utility's activities may include, but not be limited to, the following:

- (a) Stormwater user fees;
- (b) Civil penalties and damage assessments imposed for or arising from the violation of the City of White House Stormwater Management Ordinance and City of White House Stormwater Utility Ordinance;
- (c) Stormwater permit and inspection fees if so separated from the Grading Permit process; and
- (d) 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 (Tennessee Code Annotated, title 9, chapter 21).

20-205. Stormwater utility management fund. All revenues generated by or on behalf of the Stormwater Utility shall be deposited in a Stormwater Utility Management Fund and used to fulfill the purposes of the Stormwater Utility.

20-206. Operating budget. The BMA shall adopt, based on a recommendation from the Stormwater Utility, an operating budget for the Stormwater Utility Management Fund each fiscal year. The operating budget shall set forth for such fiscal year the estimated revenues and the estimated costs for operations and maintenance, extension and replacement and debt service.

20-207. Stormwater user fee established. There shall be imposed on each and every developed property in the City of White House, except exempt property, a stormwater user fee, which shall be set from time to time by ordinance as adopted by the BMA, and in the manner and amount prescribed by this ordinance. Prior to amending the stormwater user fee, the City of White House shall advertise its intent to do so by publishing notice in a newspaper of general circulation in the City of White House at least thirty (30) days in advance of the meeting of the BMA which shall consider the adoption of the fee or its amendment. The initial base rate for each ERU as established with this ordinance is hereby set at \$4.56 per month.

20-208. Equivalent residential unit (ERU).

- (1) **Establishment.** There is established for purposes of calculating the stormwater user fees the equivalent residential unit (ERU) as a method of measurement.
- (2) **Definition.** The ERU is the average of the total square footage of the impervious surface areas of a representative sample of developed single-family residential property within the City of White House as approved by the BMA.
- (3) **Setting the ERU.** The ERU shall be modified as necessary by the BMA in future years where adjustment seems required by changes in local conditions. The initial stormwater utility study concerning the ERU in the municipal city limits and hereby established by this ordinance is 3,936 Square Feet.
- (4) **Source of ERU.** The BMA shall have the discretion to determine the source of the data from which the ERU is established, taking into consideration the general acceptance and use of such source on the part of other stormwater systems, and the reliability and general accuracy of the source including but not limited to property tax assessor's rolls, site examination, mapping information, aerial photographs, and other reliable information.
- (5) **Evaluation of ERU.** The ERU shall be evaluated by the Stormwater Utility as necessary, but the ERU shall be evaluated at least every five years.

20-209. Property classification for stormwater user fees.

- (1) **Property classifications.** For purposes of determining the stormwater user fee, all properties in the City of White House are classified into one of the following categories:
 - (a) Single-family residential property;
 - (b) Other developed property;
 - (c) Vacant/undeveloped property;
 - (d) Agricultural property; or
 - (e) Exempt property.
- (2) **Single family residential fee.** The BMA finds that the intensity of development of most parcels of real property in the City of White House classified as single-family residential is similar and that it would be excessively and unnecessarily burdensome on the taxpaying citizens of the City to determine precisely the square footage of the impervious surface on each such parcel. Therefore, all single-family residential properties in the City of White House shall be charged the same stormwater user fee, equal to the ERU base rate, regardless of the size of the parcel or the impervious surface area of the improvements, except as provided herein. Single-family residential property in which the impervious surface area exceeds 10,000 square feet, including any detached accessory structures, shall be charged the same fee as other developed property.
- (3) **Other developed property fee.** The fee for other developed property (i.e., non-single-family residential property) in the City of White House shall be the base rate multiplied by the numerical factor obtained by dividing the total impervious area (square feet) of the property by the standard ERU area and rounded up to the next whole number. The minimum stormwater user fee for other developed property shall equal the base rate for a single-family residential property.
- (4) **Vacant/undeveloped property fee.** The fee for vacant/undeveloped property in the City of White House shall be as follows:

- (a) If the property contains less than 1800 square feet of impervious surface, then no stormwater user fee shall be charged;
 - (b) If the property contains 1800 square feet or more of impervious surface, then property shall be charged based on the amount of impervious surface as other developed property, with the minimum charge being the single-family residential fee.
- (5) Agricultural property. The fee for agricultural property in the City of White House shall be as follows, except as exempted under TCA 68-221-1107 where the property owner or operator is conducting activities satisfying the requirements as a qualified farmer or nurseryman:
- (a) If the property contains impervious surface areas in an amount equal to or less than 10,000 square feet, then the minimum stormwater user fee for such property shall equal the base rate for a single-family residential property;
 - (b) If the property contains impervious surface in an amount greater than the 10,000 square feet, then the property shall be charged in the same manner as other developed property.
- (6) Exempt property. There shall be no stormwater user fee for exempt property as defined in this ordinance or as otherwise provided by State law.

20-210. Base rate. The BMA shall, by ordinance as adopted by the BMA, establish the base rate for the ERU. The base rate shall be calculated to ensure adequate revenues to fund the costs of stormwater management and to provide for the operation, maintenance, and capital improvements of the stormwater system in the City of White House.

20-211. Property owners to pay charges. The owner of each property shall be obligated to pay the stormwater user fee as provided in this ordinance, provided however, that if no sewer or solid waste disposal service is being provided at the property to the owner as a customer of record and such service is being provided to a customer of record other than the owner, it shall be presumed that the owner and such customer of record have agreed that the customer of record shall be obligated to pay such stormwater user fee. If the customer of record other than the owner refuses to pay the stormwater user fee, the owner of each developed property shall be obligated to pay the stormwater user fee as defined in this ordinance.

Non-residential multi-tenant properties shall be billed according to the placement of sewer meters. For example, if the property contains individual unit meters, then billing for the stormwater user fee shall be billed to individual units based on the unit's pro rata percentage of impervious surface. If the multi-tenant property contains a master meter, then the stormwater user fee for the entire impervious surface area shall be billed to the customer of record for such master meter.

Each unit of a multi-tenant residential building shall be billed a minimum charge, the same being the single-family residential fee, to the customer of record for the unit. If an individual unit is not individually billed for any solid-waste or sewer service (i.e. sewer service is billed to a master meter) then the customer of record for the master meter shall be billed as other developed property based on the total impervious surface area.

20-212. Billing procedures and penalties for late payment.

- (1) Rate and collection schedule. A stormwater user fee shall be set at a rate as set forth and adopted by BMA ordinance, collected at a location and on a schedule, established in accordance with this ordinance. The stormwater user fee shall be billed and collected monthly with the monthly utility services bill for those properties within the corporate limits. The stormwater user fee for those properties utilizing City utilities is part of a consolidated statement for utility customers, which is generally paid by a single payment to the City of White House. All bills for the stormwater user fee shall become due and payable in accordance with the rules and regulations of the applicable utilities department pertaining to the collection of the stormwater user fees. Adjustments to the applied rate and collection on any property or user may be initially addressed with the Public Service Director having authority to correct billings strictly in accordance with this regulation. Any formal appeals of the Public Service Director decisions shall be as described and in accordance with the appeals section of this ordinance.

- (2) Delinquent bills. The stormwater user fee shall be considered delinquent if not received by the City of White House by the due date stated in the utility statement and subsequent late fees may be imposed in accordance with the law as adopted by the BMA as established by ordinance.
- (3) Penalties for late payment; failure to pay. Stormwater user fees shall be subject to a late fee established by ordinance. The City of White House shall be entitled to recover attorney's fees incurred in collecting delinquent stormwater user fees. The City may discontinue comprehensive utility service to any stormwater user who fails or refuses to pay the stormwater user fees and may refuse to accept payment of the utility bill from any user without receiving at the same time, payment of the stormwater user fee charges owed by such user and further may refuse to re-establish service until all such fees have been paid in full.
- (4) Mandatory statement. Pursuant to Tennessee Code Annotated § 68-221-1112, each bill that contains stormwater user fees shall also contain the following statement: "THIS TAX HAS BEEN MANDATED BY CONGRESS." Although the mandatory statement will be placed on each bill, the City of White House BMA hereby finds and declares that the stormwater user fee is a utility service fee and not a tax.

20-213. Appeals of fees. Any person who disagrees with the calculation of the stormwater user fee, as provided in this ordinance, may appeal such fee determination to the Stormwater Advisory Board within ten (10) days after the date the payment is due. Any appeal not filed within the time permitted by this section shall be deemed waived.

All appeals shall be filed in writing addressed to the Director of Public Services and shall state the grounds for the appeal and the amount of the stormwater user fee the appellant asserts is appropriate and inappropriate. The appeal shall provide such information and documentation supporting the basis of the appeal. The appeal shall be accompanied by an appeal review fee of \$300. The appeal review fee shall be refunded to any party who prevails in an appeal of the calculation of the stormwater user fee. As a condition to maintaining an appeal, the appellant shall pay all charges billed under protest prior to or at the time of the filing of the appeal.

The Stormwater Advisory Board shall review the appeal and determine whether the challenged determination is consistent with the provisions of this chapter. Appeals related to the stormwater user fee shall be decided based on substantiated evidence with a sound engineering and factual basis. All appeal determinations shall be applied utilizing a strict interpretation of the Stormwater Utility Ordinance. At any hearing related to an appeal or credit determination, the City shall be allowed to present evidence, findings, and recommendations; appealing parties and applicants shall be given an opportunity to present evidence, findings, and recommendations. The Stormwater Advisory Board may request additional information from the appealing party; the board may defer the determination of an appeal one time to the next regularly scheduled meeting of the Stormwater Advisory Board. Each appeal shall be placed on the Stormwater Advisory Board agenda for the next regularly scheduled meeting, which meeting is at least twenty days after the Director of Public Services receives the written appeal. The Director of Public Services shall notify the appellant customer of the date of the appeal review hearing in writing; such written notice shall be given at least ten days prior to the hearing by regular mail at the address provided in the written appeal document. The decision of the Stormwater Advisory Board shall be final and conclusive with no further administrative review.

If a refund is due, the Director of Public Services shall authorize the refund which will be provided as a credit against the customer's stormwater user fee billings until such credit is exhausted.

20-214. Stormwater user fee credit and adjustment policy. Stormwater user fee credits and adjustments are available to other developed property (i.e. non-single-family residential property) with exception to a small homes credit, which is available exclusively for single-family residential property, as outlined in the Stormwater Utility Credit and Adjustment Policy Manual.

20-215. Effective date. This ordinance shall become effective as of the date of its passage on second reading by the BMA. Stormwater user fees shall be charged as a utility billing for all customers within the corporate City limits no beginning January 1, 2015 at 1 ERU for all users. The final ERU billing rates for each of the specific fee classifications will take full effect for all users beginning July 1, 2015.

CHAPTER 3

STORMWATER ADVISORY BOARD

SECTION

- 20-301. Established
- 20-302. Composition; terms; Filling vacancies.
- 20-303. General duties of the Stormwater Advisory Board.
- 20-304. Variances.
- 20-305. Meetings, quorum.
- 20-306. Hearing Procedure; judicial review.

20-301. Established. There is hereby established a board of seven (7) members to be known as the “Stormwater Advisory Board” (SWAB).

20-302. Composition; terms; filling vacancies. The seven (7) members of this board shall be appointed by the Mayor, subject to the approval of the Board of Mayor and Aldermen. The Mayor shall appoint members with the following representations: one (1) representative from the Planning Department, one (1) representative from Public Services, one (1) representative from the City Administration at large, one (1) representative from the Finance Department, one (1) representative employed or retired from a business establishment regulated by this article, one (1) citizen residing within the City Limits of White House, and one (1) representative that is a current member of the Board of Mayor and Aldermen. The Stormwater Coordinator and City Engineer will not be appointed members of the SWAB but shall attend the meetings of the SWAB on behalf of the City. All members shall serve until their successor is appointed. In the event of a vacancy, the Mayor shall appoint a member to fill the unexpired term subject to approval by the Board of Mayor and Aldermen. The SWAB shall select its own chair and vice chair. All officers shall serve for terms of one (1) year.

20-303. General duties of the SWAB. In addition to any other duty or responsibility otherwise conferred upon the SWAB by this Title, the SWAB shall have the duty and power as follows:

- (1) To recommend from time to time to the Board of Mayor and Aldermen that it amend or modify the provisions of this Title;
- (2) To hold hearings relating to the suspension, revocation, or modification of a permit due to stormwater related infractions and issue appropriate orders relating thereto;
- (3) To hold hearings relating to an Appeal from a user concerning the accuracy of any fees imposed upon the same Stormwater Management System user;
- (4) To hold such other hearings as may be required in the administration of this Title and to make such determinations and issue such orders as may be necessary to effectuate the purposes of this Title;
- (5) To request assistance from any officer, agent, or employee of the City or the White House Municipal Planning Commission and to obtain such information or other assistance as the SWAB might need;
- (6) To provide guidance to the Stormwater Coordinator concerning community initiatives, community involvement, public interface and public projects as may from time to time be required to improve the water quality within the jurisdiction in accordance with the intent of this Title.

20-304. Variances.

- (1) The SWAB may grant a variance from the requirements in this Title, provided to do so would not result in the violation of any state or federal law or regulation and if exceptional circumstances applicable to the Site exist such that strict adherence to the provisions of this Title will result in unnecessary hardship and will not result in a condition contrary to the intent of the Title.

- (2) The appellant shall submit a written request containing specific justifications, and any other information necessary to the Stormwater Coordinator for the variance request. The Stormwater Coordinator shall conduct a review of the request for a variance within twenty-five (25) working days after receipt and may either support the petition or may object to the petition. The Stormwater Coordinator shall receive coordination and review comments from the City Engineer on variances and may require additional information or an independent third party study or design analysis. If the Stormwater Coordinator objects to the variance, the reasons therefore shall be stated. Once the Stormwater Coordinator's review is complete or the twenty-five (25) working days for review have expired, the petition shall be subject to SWAB action at the next regularly scheduled meeting or at a special meeting called at the discretion of the chair.
- (3) Variance requests shall be reviewed by the SWAB and may be granted using the following criteria:
 - (a) Those projects or activities where it can be demonstrated that strict compliance with the ordinance would result in severe practical difficulty. Each of the following criteria must be satisfied to show practical difficulty:
 - i. The problem is not self-created.
 - ii. The situation of the landowner is due to the unique conditions of the property. A unique condition is a condition that is peculiar to the subject property that relates to a physical aspect of the subject property.
 - iii. Compliance with the strict letter of the restrictions governing physical requirements such as lot area, setbacks, and lot coverage unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.
 - (b) Those projects or activities serving a public need where no feasible alternative is available.
 - (c) The repair and maintenance of public improvements where avoidance and minimization of adverse impacts to Wetlands and associated aquatic ecosystems have been addressed.
 - (d) Other considerations, such as:
 - i. The proximity of the facility to a waterfront location, in the case of a Functionally Dependent Facility.
 - ii. The relationship of the proposed use to the White House Zoning Ordinance, Comprehensive Land Use Plan, and other community master planning documents for that area.
 - iii. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - iv. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
 - v. Whether issuance of a variance is the minimum necessary so as not to destroy the character and design of a historic building or feature.
 - (e) In approving a variance, the SWAB may impose conditions on the approval. The conditions shall be identified in the variance approval.
 - (f) The decisions of the SWAB shall be final and conclusive.
- (4) Effect of a Variance. The issuance of a variance shall authorize only the particular variation that is approved. A variance, including any conditions, shall run with the land and shall not be affected by a change in ownership.
- (5) Subsequent Development. Development authorized by the variance shall not be carried out until the applicant has secured all other approvals required by this Title or any other applicable local, state or federal law or regulation. A variance shall not ensure that the development feature approved as a variance shall receive

subsequent approval for other applications for development approval unless the relevant and applicable portions of this Title's other applicable provisions are met.

- (6) Time Limit. Unless otherwise specified in the variance, an application for a Permit (related to this Stormwater Variance) shall be applied for and approved within one (1) year of the date of the variance approval; otherwise the variance shall become invalid. Permitted time frames do not change with successive owners.

20-305. Meetings; quorum.

- (1) The SWAB shall hold regular monthly meetings as needed, but no less than once per quarter and such special meetings as the SWAB may find necessary.
- (2) Four (4) members of the SWAB shall constitute a quorum. A concurring vote of a majority of the voting members present shall be necessary to deny or grant any appeal or other action of the board.
- (3) The SWAB meetings, deliberations, and records shall be open to the public. The SWAB may elect to provide for public comment on relevant issues.

BE IT FURTHER ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF WHITE HOUSE, Tennessee, that any developer that has submitted construction plans or had a pre-application conference for a site plan with the City, or any future site plan that is part of a larger common development that has an active Notice of Coverage under the Tennessee Construction General Permit prior to the passage on second and final reading of this Ordinance, may be exempt from the effects of this Ordinance and shall comply with the stormwater requirements as set forth in previously established and required City regulations.

BE IT FINALLY ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF WHITE HOUSE, Tennessee, that this Ordinance shall take effect from and after its passage on second and final reading, the health, safety, and welfare of the citizens requiring it.

First Reading: November 20, 2014

Second Reading: December 18, 2014

ATTEST: CITY OF WHITE HOUSE, TENNESSEE:

BY: _____

GERALD O. HERMAN
City Administrator

BY: _____

MICHAEL C. ARNOLD
Mayor