

**DRAFT**

RESOLUTION NO. \_\_\_\_\_

**SPONSORED BY: COMMISSIONERS MIKE WALKER, MARK HASTY AND  
WENDY PITTS REEVES**

**A RESOLUTION ESTABLISHING A WATER QUALITY  
BUFFER AND RELATED REGULATION OF STREAMS,  
RIVERS, WETLANDS, PONDS AND LAKES IN BLOUNT  
COUNTY.**

**WHEREAS;** the streams and rivers of Blount County supply much of the water required by citizens for drinking and other municipal and industrial uses, and

**WHEREAS;** the people of Blount County use surface waters for fishing, canoeing, swimming, and other recreational and economic purposes, and

**WHEREAS;** the streams and rivers of Blount County are vital to the environmental health of the community and to wildlife and aquatic life that reside in or near said streams; and

**WHEREAS;** the Blount County Commission finds that the protection of streams and rivers in Blount County is vital to the health, safety, environmental, and economic welfare of its citizens and the community at-large, and

**WHEREAS;** it is the intent of this Resolution to establish a new WATER QUALITY BUFFER of restricted development and limited land use adjacent to all community waters in the unincorporated areas of Blount County, and

**WHEREAS;** new development and re-development adjacent to community waters shall include such buffers in their proposed plans, and

**WHEREAS;** the purposes of the WATER QUALITY BUFFERS are to:

- a. Protect public and private water supplies,
- b. Minimize thermal stream pollution by adding or preserving stream canopy,
- c. Trap sediment, nutrients and other pollutants in surface run-off,
- d. Promote bank stabilization,
- e. Protect wetlands,
- f. Minimize the impact of floods,
- g. Reduce stormwater runoff velocities,
- h. Protect channel bank area from erosion and scour,
- i. Protect wildlife habitat, and

- j. Generally maintain water quality.

**WHEREAS;** Blount County has applied for, obtained, and shall comply with the National Pollutant Discharge Elimination System (NPDES) Phase II permit for discharges of stormwater runoff into the waters of the State of Tennessee; and

**WHEREAS;** Under the authority of the Federal Water Pollution Control Act of 1977 (known as the Clean Water Act), the United States Environmental Protection Agency (EPA) is specifically required to develop and oversee the National Pollutant Discharge Elimination System (NPDES) permit program which requires all communities operating a small municipal separate storm sewer system (MS4) to regulate the discharge of pollutants to the waters of the state. Under the authority of the Tennessee Water Quality Control Act of 1977 the Tennessee Department of Environment and Conservation (TDEC) has interpreted that this mandate includes the regulation of water quality buffers. The permit requires that Blount County “develop and implement a set of requirements to establish, protect and maintain water quality buffers in areas of new development and redevelopment.” In the permit, water quality buffers are defined as “undisturbed vegetation including trees, shrubs, and herbaceous vegetation; enhanced or restored vegetation; or the re-establishment of vegetation bordering streams, ponds, wetlands, reservoirs, or lakes, which exists or is established to protect those water bodies.”

**NOW, THEREFORE BE IT ORDAINED BY THE COMMISSION OF BLOUNT COUNTY, TENNESSEE, AS FOLLOWS:**

WATER QUALITY BUFFERS

<u>Section</u>	
1	Definitions
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## Section 1     DEFINITIONS

As used in this Document, unless the context clearly indicates otherwise, the following definitions apply:

- a. “Blount County” represents any permitting agency within the county government including but not limited to the following: Stormwater, Building Codes, Planning, Environmental Health, and Zoning.
- b. “Community Waters” include streams, rivers, wetlands, ponds and lakes as defined in this resolution *that connect one to the other.*
- c. “Development” includes any of the following activities:
  1. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
    - a. One or more residential or nonresidential buildings, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or,
    - b. The division or allocation of land or space, between or among two or more existing or prospective occupants by means of, or for the purposes of streets, common areas, leaseholds, condominiums, building groups or other features.
  2. The process of grading, clearing, filling, quarrying, construction, or reconstruction to improved or unimproved real estate or other similar activities.
- d. “Existing Land Use” means a land use which, prior to the effective date of this resolution, is either:
  1. Completed; or
  2. Ongoing, as in the case of agricultural activity; or
  3. Under construction; or
  4. Fully approved by the governing authority.
- e. “Floodplain” means *relatively flat area or lowlands adjoining a water course, or other body of water, that has been, or may be, covered by water.*
- f. “Impervious Surfaces” shall mean those areas that prevent or impede the infiltration of stormwater into the soil as it entered in natural conditions prior to development. Common impervious areas include, but are not limited to, rooftops, sidewalks, walkways, streets, patio areas, driveways, parking lots, storage areas, compacted gravel and soil surfaces, awnings and other fabric or plastic coverings.
- g. “Land-disturbing Activity” shall mean any activity on private or public land that may result in soil erosion and the movement of sediments. Land disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, logging and/or tree chipping operations, haul roads associated with the development, and excavation, etc.

- h. “Native Vegetation” are indigenous plants to East Tennessee or the southeastern United States.
- i. “Pond or Lake” are defined as inland bodies of standing water.
- j. “Redevelopment” See “development”
- k. “Stream” or “River” means the following:
1. A linear surface water conveyance that can be characterized as having either perennial or ephemeral base flow and
  2. Has a defined floodplain that has been computed as part of a Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA); or
  3. Are identified as a blue line on a 7.5-minute USGS quadrangle, unless otherwise designated by Tennessee Department of Environmental Conservation (TDEC); or
  4. Are determined to be streams by Blount County, the United States Army Corps of Engineers (USACE) or TDEC.
- l. “Top of Bank” the uppermost limit of an active stream channel, usually marked by a break in slope.
- m. “Water Quality Buffer” or “WQB” is a defined area that encompasses all land within the areas as described in Section 3. The water quality buffer is intended to mean undisturbed vegetation including trees, shrubs, and herbaceous vegetation; enhanced or restored vegetation; or the re-establishment of vegetation bordering streams, ponds, rivers, wetlands, reservoirs, or lakes, which exists or is established to protect those water bodies.
- n. “Wetlands” shall mean an area that is naturally or by design inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetland determination shall be made by the Army Corps of Engineers and/or Tennessee Department of Environment and Conservation (TDEC), or a qualified professional that has been trained in the identification and delineation of wetland areas.

## Section 2      **APPLICABILITY**

The water quality buffer shall apply to all non-residential new developments, modifications to existing developments, and/or redevelopments, or any residential development or redevelopment that will result in a land-disturbing activity that is equal to or greater than one (1) acre and shall establish, protect and maintain water quality buffers along all streams, rivers, lakes, ponds and wetlands that are located in, or portions of which are located in, the unincorporated areas of Blount County as set forth in this resolution. Any property or portion thereof that lies within the water quality buffer is subject to the requirements for the water quality buffer stated in this resolution.

a. Exemptions. The following shall be exempted from provisions of these regulations.

- i.) Any land division that falls without the definition of a subdivision in TCA 13-3-401(4)(B) for five acre tracts that do not require extension of roads and utilities.
- ii.) Any land division that falls under provisions of TCA 13-3-408 pertaining to division by the courts as among heirs and among joint owners.
- iii.) Division of land falling within the definition of a minor subdivision in the Blount County Subdivision Regulations, being generally a division into four or fewer lots.
- iv.) Adjustment of parcel lines between adjacent owners by plat.
- v.) Division of parcel or lot all portions of which are outside the required buffer.
- vi.) Any development which restricts in site plan or plat that impervious surface within 25 feet of the regulated body of water will be negligible, and for total development will not be greater than ten (10) percent impervious surface post development (after development is complete).

### Section 3      STANDARDS FOR BUFFER WIDTHS

Except as otherwise provided in this resolution, the water quality buffer must be maintained in a vegetated state as defined below. Any property or portion thereof that lies within the WQB is subject to the restrictions of the WQB. The water quality buffer width shall be determined as follows:

- a. If state and/or federal regulatory buffer requirements are not applicable, then a minimum buffer width of five (5) feet shall apply.
- b. A water quality buffer of a minimum of five (5) feet shall be provided along each side of a stream or river, as measured perpendicular from the top of the bank of the active channel and extending landward. The minimum vegetative target is undisturbed, mature, moderately dense forest (i.e., trees) with woody shrubs and understory vegetation.
- c. For ponds and lakes that are directly connected to community waters, a minimum buffer of five (5) feet shall be provided around the perimeter of ponds and lakes. The buffers shall be measured perpendicular from the topographic contour that defines the normal pool elevation.
  1. Water quality buffers shall not be required around the perimeter of hydraulically disconnected ponds and lakes or ponds that are designed and constructed for the purposes of stormwater quality treatment.
  2. The minimum vegetative target for water quality buffers on ponds and lakes is mowed dense grass that covers the entire buffer area.

- d. A minimum buffer width of five (5) feet shall be provided around the perimeter of a wetland, as measured from the outermost edge of the wetland.
  1. Water quality buffers are not required for wetlands designed and constructed for the purposes of stormwater quality treatment.
  2. The minimum vegetative target for water quality buffers around wetlands is undisturbed, mature, moderately dense forest (i.e., trees) with woody shrubs and understory vegetation.

#### Section 4      STANDARDS FOR BUFFER VEGETATION

The vegetative goal is a use-restricted, vegetated buffer that is located along the perimeter of a community water within Blount County, containing natural vegetation and grasses, enhanced or restored that is native in origin.

- a. The vegetative targets for a stream, river, or wetland buffer *shall include native mature, moderately dense forest with woody shrubs and understory vegetation and dense grasses.*
- b. The vegetative targets for a pond or lake buffer shall be a minimum of mowed dense grass that covers the entire buffer area.
- c. If a water body does not have an established water quality buffer, then a water quality buffer enhancement plan shall be required. Such a planting plan shall be submitted to the Blount County Stormwater Department for approval and comply with the following:
  1. All planting plans shall be drawn to scale and may be part of a larger landscaping plan.
  2. The planting plan shall be a part of the required site plan review submittals.
  - 3.
  - 4.
- d. Establishment of a vegetated WQB must adhere to the following conditions and be shown on the buffer enhancement plan:
  1. Stream banks must be planted with native vegetation that represents both woody (trees and shrubs) and herbaceous species. Density shall depend on the re-vegetation technique to be used and existing site conditions;
  2. No trees shall be planted in a utility easement;
  3. No single species may comprise more than one third (1/3) of the total planted trees or shrubs;
  4. Seedlings/trees must be guaranteed at a seventy-five percent (75%) survivorship; and
  5. Non-native species must be removed and managed.
- e. Details on appropriate vegetation for water quality buffer areas, detailed information on streambank and buffer restoration techniques, planting guidelines and lists of native plant species can be found from the following sources:
  - Tennessee Valley Authority's Riparian Restoration webpage, located at [www.tva.com/river/landandshore/stabilization/index.htm](http://www.tva.com/river/landandshore/stabilization/index.htm)
  - Tennessee Valley Authority's Native Plant Finder webpage, located at [www.tva.com/river/landandshore/stabilization/plantsearch.htm](http://www.tva.com/river/landandshore/stabilization/plantsearch.htm);
  - Banks and Buffers: A guide to selecting native plants for streambanks and shorelines. Contact information to obtain this publication is provided at [www.tva.com/river/landandshore/stabilization/websites.htm](http://www.tva.com/river/landandshore/stabilization/websites.htm);

- the Tennessee Exotic Plant Pest Council website, located at [www.tneppc.org](http://www.tneppc.org); and
- the Natural Resource Conservation Service (NRCS) [www.nrcs.gov](http://www.nrcs.gov).

## **Section 5 ACTIVITIES WITHIN THE WATER QUALITY BUFFER**

The water quality buffer shall be established, managed and maintained to protect the physical and ecological integrity of community waters, to reduce flooding potential, provide tree canopy and to filter runoff from developed areas. Management of the WQB includes specific limitations on alteration of the natural conditions.

a. The following activities are prohibited within the Water Quality Buffer:

1. The storage of pesticides, herbicides, and fertilizers,
2. Parking lots,
4. New structures,
5. Vehicle storage and vehicle maintenance,
6. Waste storage,
7. Other manmade impervious areas,
8. Septic tanks and septic drain fields, except as otherwise provided herein,
9. Buildings, accessories, structures and all types of impervious surfaces,
10. Hazardous or sanitary waste landfills,
11. Receiving areas for toxic or hazardous waste or other contaminants,
12. Mining (unless exempt by State law),
13. Dumpster storage,
14. Grease bin storage,
15. Animal lots or kennels, and
16. Other uses known to contribute pollutants to waterways.

b. The following activities may be allowed on a restricted basis within the Water Quality Buffer with prior approval by the Blount County Stormwater Department:

1. Septic tanks and septic drain fields in an approved location by the Blount County Environmental Health Department.
2. Individual trees within the WQB may be removed if in danger of falling, causing damage to dwellings or other structures, causing blockage of the stream, standing in the path of an approved water, sanitary sewer, storm main; and/or the roots of a tree are penetrating or in danger of penetrating a sewer, water or storm drainage line at a joint or pipe connection. The root wad or stump should be left in place, where feasible, to maintain soil stability.
3. Infrastructure such as roads, bridges, storm drainage, stormwater management facilities that are appropriate for use in a riparian zone (i.e., wetlands, buffers), and utilities provided that they adhere to the following standards:
  - i: The width should be the minimum width needed to allow for maintenance access and installation;
  - ii: WQB crossings shall be at an angle that minimizes clearing requirements;

- iii: The minimum number of WQB crossings should be used within each development, with no more than one crossing every one-thousand (1000) linear feet. The Stormwater Department may approve additional crossing if justified by traffic, safety, or access issues.
4. Paths and greenway trails, public or private, with a width no greater than 5 ft. be allowed, and if greater than 5ft., it must be approved by Blount County.
  5. Access areas for utilities that are located in the water quality buffer shall be allowed. Access areas must be minimized to the maximum extent practicable and shall be located at intervals no less than four-hundred (400) feet unless warranted by valid safety, access, or service issues.
  6. Removal of forest vegetation that has the potential to impact traffic safety or limit access to areas immediately surrounding the approved stream or utility crossing. The area shall be vegetated with a minimum of dense grass.
  7. Bank stabilization / restoration / habitat alteration projects.
  8. Disturbances as required to establish and/or restore buffer areas in accordance to an approved buffer enhancement plan.
  9. The pruning of native vegetation is allowed provided that the health and function of the vegetation is not compromised. However, only the individual removal of understory nuisance non-native vegetation (i.e. honeysuckle, kudzu, privet) causing minimal soil disturbance is permitted. On land where the removal of such nuisance vegetation would cause a reduction in the amount of stream canopy by 50% or more, re-vegetation with native plants should be targeted to provide 50% of the previous canopy at a minimum. For areas where such nuisance vegetation removal would cause a reduction in the amount of stream bank vegetation, re-vegetation with native plants is required to meet the previous density of coverage.
  10. Other uses permitted and approved by TDEC, or under Section 404 of the Federal Clean Water Act, or by the Tennessee Valley Authority (TVA).
  11. Education / scientific research that do not require any prohibited activities identified in this section.
  12. Land uses that involve agriculture production and management consistent with all state and federal laws and all regulations promulgated by the Tennessee Department of Agriculture.
  13. Land disturbance and grading, but must be re-vegetated according to Section 4.
  14. Clearing, grubbing, grading and re-vegetation, performed in accordance with an approved grading plan.
  15. Disturbances necessary for the construction of utility access areas and approved stream crossings.
  16. Ongoing vegetative maintenance activities such as mowing, bush-hogging, and weed-eating.
  17. The limited use or application of fertilizers, pesticides, and herbicides.
  18. Storm water retention and detention facilities that meet the approval of Blount County.

## Section 6 PROTECTION OF WATER QUALITY BUFFER

All water quality buffers must be protected during construction / development activities.

Prior to the initiation of land disturbing activities, construction layout surveys must include: staking and labeling of the water quality buffer perimeter. A combination of stakes, flagging and/or silt fence may be used to ensure adequate visibility of the WQB. The layout must be inspected and approved by the Stormwater Department before grading begins.

All areas of the water quality buffer, including stream banks, must be left in a stabilized condition upon completion of construction activities. No actively eroding bare or unstable stream banks shall remain, unless approved by the Director of the Stormwater Department or his designee. Placement of riprap and other hard armor is allowed only when bioengineering alternatives are not feasible.

Water quality buffers cannot be encroached upon or disturbed during project construction, unless they are being established, restored, or enhanced in accordance with an approved buffer enhancement plan.

Once construction has ceased on a project, water quality buffers must still be maintained in accordance with the recorded Covenants for Maintenance of Stormwater Facilities and Best Management Practices. The covenants shall require that maintenance of the water quality buffer *in perpetuity* be the responsibility of the property owner. *If the property owner is not willing to accept responsibility and the area is not publicly owned, "the water quality buffer shall be placed into an easement to be held" by one of the following non-governmental entities.* :

- a. A viable third party such as a land trust, land management company or utility. The purpose of the third party is to provide monitoring and oversight to ensure the perpetual protection of the area in accordance with the requirements of a buffer area. The organization shall:
  1. Have the legal authority to accept and maintain such easements;
  2. Be bona fide and in perpetual existence; and
  3. Have conveyance instruments that contain an appropriate provision for re-transfer in the event the organization becomes unable to carry-out its functions.
  
- b. A property owners association (POA) provided that the following criteria are met:
  1. Membership in the POA is mandatory and automatic for all property owners and their successors;
  2. The POA shall have continuing lien authority to ensure the collection of dues from all members; and
  3. The POA assumes the responsibility for protecting, monitoring and maintaining the area as a conservation easement, in perpetuity.

## **Section 7 WATER QUALITY BUFFER ENHANCEMENTS**

The property owner may restore or enhance vegetation within a water quality buffer with prior approval of a Buffer Enhancement Plan by the Director of the Stormwater Department or his designee.

The Director of the Stormwater Department or his designee shall have the authority to require a property owner to restore or enhance water quality buffers that have been disturbed or do not meet, or have the potential to not meet through natural vegetative succession, the vegetative targets for buffer areas that are defined herein.

Enhancement of water quality buffers must be performed in accordance with the requirements of Section 4 and the guidance provided below.

1. The buffer being enhanced must be planted with vegetation that is appropriate to achieve the vegetative targets stated in Section 4.
2. The buffer being enhanced must be stabilized against erosion.
3. If the buffer around a pond or lake will consist largely of grasses after enhancement, seeding must be performed at a rate sufficient to provide healthy, dense, permanent vegetative cover for 100% of the buffer area within one growing season. Mulch, pebbles, wood chips and other non-vegetative ground cover is not acceptable for buffer enhancement.
4. Where the removal of such vegetation would cause a reduction in the amount of stream canopy by 50% or more, re-vegetation with native plants is required to provide the cover of the previous canopy at a minimum. For areas where such vegetation removal would cause a reduction in the amount of stream bank vegetation, re-vegetation specifications with native plants is required to return the amount of vegetative cover to its previous state, at a minimum. To reduce the potential for stream bank erosion, re-vegetation measures along stream banks must include sufficient erosion control measures, such as turf reinforcement mats, erosion control blankets, straw wattles, etc., to stabilize the area in the short- and long-term.
5. To increase the chances for the success and health of the buffer area, the plant species, density, placement, and diversity proposed in the Buffer Enhancement Plans must be appropriate for stream, wetland, and pond/lake buffers to achieve the vegetative target that is defined for the buffer through natural succession. Proposed planting and long-term maintenance practices must also be appropriate and properly performed.
6. Vegetation mortality must be accounted for all planting densities that are proposed in buffer enhancement plans.

## **Section 8      SITE PLANS AND PLATS PREPARED FOR RECORDING**

Unless otherwise provided herein, all site development plans and plats shall:

- a. Show the extent of any WQB on the subject property by metes and bounds or defined distance from metes and bounds referent and be labeled as "Water Quality Buffer".
- b. Provide a note with reference to the WQB stating that there shall be no clearing, grading, construction or disturbance of vegetation except as permitted by Blount County.
- c. Visible permanent boundary markers approved by Blount County shall be required to be installed prior to the recording of the final plat or the issuance of a Certificate of

Occupancy. The boundary markers should be installed in a visible area located near the property lines at the intersection of the landward edge of the buffer. The boundary markers must be placed every one hundred (100) linear feet for parcels with buffers exceeding two hundred (200) linear feet for a single parcel of land. Buffer boundary markers shall include the statement "Water Quality Buffer – Do Not Disturb". Where possible, the markers should be mounted to a tree larger than three (3) inches in diameter. Where it is not possible to mount the marker to a tree, a treated wood, metal, or plastic signpost must be used.

### **Section 9 VARIANCES - WATER QUALITY BUFFER AVERAGING**

**A variance may be granted in the form of a reduction in the Water Quality Buffer width over a portion of property in exchange for an increase in buffer width elsewhere on the same property such that the average WOB width remains sixty (60) feet. A property owner may request a variance from the requirements of the WOB by submitting a letter to the Blount County Stormwater Department justifying the purpose for the variance and the width of variance requested. The variance may be granted provided the following conditions are met:**

**i.) The width of the averaged buffer within the boundaries of the property to be developed shall not be less than sixty (60) feet; and**

**ii.) The width of the buffer shall not be less than thirty (30) feet at any location (sixty (60) feet for steep slope areas), except where stream crossings have been approved by Blount County.**

**iii.) Those areas of the water quality buffer having a minimum width of thirty (30) feet (or less at the stream crossing) can comprise no more than fifty (50) percent of the buffer length.**

**iv.) Buffer averaging is required for WOB that have stream crossings.**

**v.) Buffer averaging is prohibited for any portion of the developments that have or have planned land use as described:**

**1. Areas that have slopes greater than 15% that are located within fifty (50) feet of the stream to be buffered;**

**2. Developments or facilities that include on-site sewage disposal and treatment system drainfields (i.e., septic systems), raised septic systems, subsurface discharges from a wastewater treatment plant, or land application of biosolids or animal waste;**

**3. Landfills (demolition landfills, permitted landfills, close-in-place landfills);**

**4. Junkyards;**

**5. Commercial or industrial facilities that store and/or service motor vehicles;**

**6. Commercial greenhouses or landscape supply facilities;**

**7. Developments or facilities that have commercial or public pools;**

**8. Agricultural facilities, farms, feedlots, and confined animal feed operations; and**

- 9. Animal care facilities, kennels, and commercial/business developments or facilities that provide short-term or long-term care of animals;
- 10. Other land uses deemed by the Stormwater Department to have the potential to generate higher than normal pollutant loadings.

#### **Section 10 NON-COMPLIANCE**

Whenever the County Stormwater Director or his designee determines that a violation of any provision of this resolution has occurred, or that work does not have a required plan or permit, or that work does not comply with an approved plan or permit, the County Stormwater Director or his designee shall issue a Notice of Non-Compliance to the property owner, utility, facility operator, lessee, contractor, permittee and/or the equipment operator doing work on the site. The Notice of Non-Compliance shall:

- a) Be in writing.
- b) Include a description of the property sufficient for identification of where violation has occurred.
- c) List the violation.
- d) State the action required.
- e) Provide a deadline for compliance or to stop work.

#### **Section 11 CIVIL PENALTIES**

a. Civil Penalty:

Any person or entity violating the provisions of this resolution may be assessed a civil penalty by the County of not less than fifty dollars (\$50.00) or more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.

b. In assessing a civil penalty, the County may consider:

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

c. In addition to the civil penalty in subsection (2) above, the County may recover all damages proximately caused by the violator to the County, which may include any reasonable expenses incurred in investigating and enforcing violations of this document.

d. The County may bring legal action to enjoin the continuing violation of this resolution, and the existence of any other remedy, at law or in equity, shall be no defense to any such actions.

e. 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.

f. If a violation of the provisions contained herein occurs during the construction period, all work on the site may be halted by a Stop Work Order until the Director deems corrections are sufficient.

**g. Appeals. Any applicant or permit holder may appeal any decision or interpretation of the provisions of this resolution by the Inspector to the Blount County Board of Zoning Appeals by filing a petition for review with the board within thirty (30) days of such decision or interpretation. No fine shall be rendered until the Appeals Board decision is given. Any person aggrieved by a final decision of the board may seek review by a court of competent jurisdiction.**

## **Section 12 PERFORMANCE BONDS**

- a. Prior to plat approval, a performance bond which guarantees satisfactory completion of new development or redevelopment projects may be required for work related to the water quality buffer until project approval by Blount County.
- b. Performance bonds shall name Blount County as beneficiary and shall be guaranteed in the form of a surety bond, cashier's check, or letter of credit from an approved financial institution or insurance carrier. The surety bond, cashier's check, or letter of credit shall be provided in a form in an amount to be determined by Blount County. The actual amount shall be based on submission of plans and estimated construction, installation or potential maintenance and/or remediation expenses.
- c. The Director of the Stormwater Department may refuse brokers or financial institutions the right to provide a surety bond, letter of credit, or cashier's check based on past performance, ratings of the financial institution, or other appropriate sources of reference information.
- d. A performance bond is not required for an individual residential lot, except when deemed necessary by the Director based on site conditions and the adverse impact on downstream conditions or other properties.

## **Section 13 REPEAL CLAUSE**

The provisions of any ordinances or resolutions or parts thereof in conflict herewith shall not apply, except for ordinances or resolutions or parts thereof which provide stricter standards from those provided herein.

**Section 14 CONFLICTS WITH STATE REQUIREMENTS**

The State of Tennessee may require water quality buffers during construction activities via provisions contained in the Tennessee Construction General Permit (CGP) or other regulatory permits and processes. The State's requirements may, or may not, align with Blount County's requirements and policies for water quality buffers. It is the responsibility of the site owner/developer to be informed and educated on any State-level buffer requirements. If a site owner/developer intends to apply Blount County's buffer requirements in lieu of any requirements of the State of Tennessee, the owner/developer must first obtain approval from TDEC and provide Blount County with written documentation of such approval.

**Section 15 EFFECTIVE DATE**

**NOW, THEREFORE, BE IT RESOLVED** by the Blount County Board of Commissioners meeting in regular session on this the **20<sup>th</sup> day of November, 2008**, that this resolution shall take effect on final passage, the public welfare requiring it.

**Duly authorized and approved the 20th day of November, 2008.**

**CERTIFICATION OF ACTION:**

**ATTEST:**

\_\_\_\_\_  
Commission Chairman

\_\_\_\_\_  
County Clerk

Approved: \_\_\_\_\_

Vetoed: \_\_\_\_\_

\_\_\_\_\_  
County Mayor

\_\_\_\_\_  
Date