

RESOLUTION SPONSORS: Wendy Pitts Reeves Kenneth Melton

**RESOLUTION NO.** 09-06-003

**A RESOLUTION ESTABLISHING STORMWATER QUALITY MANAGEMENT  
CRITERIA IN THE URBANIZED AREA OF BLOUNT COUNTY**

WHEREAS; a resolution is needed to regulate the discharge of pollutants, particularly sediment, in stormwater runoff; and

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 County Commission of Blount County finds that the protection of streams and rivers in Blount County is vital to the health, safety, and economic welfare of its citizens, and

WHEREAS; it is the intent of this resolution to establish new stormwater quality management rules for development and redevelopment located in the urbanized areas of Blount County, and

WHEREAS; a resolution is needed for compliance with state and federal regulations of the Clean Water Act:

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF BLOUNT COUNTY, TENNESSEE as follows:

**SECTION 1: Purpose.** The purpose of the Stormwater Quality Management Resolution is as follows:

- (1) To apply to the unincorporated, urbanized areas of Blount County;
- (2) To protect, maintain, and enhance the environment of Blount County and to safeguard the health, safety, and general welfare of the citizens of the County, by controlling discharges of pollutants to the public stormwater system, with the intent of maintaining and improving the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the County;
- (3) To preserve the value of land throughout the County;
- (4) To establish reasonable and accepted standards of design and procedures that prevent or reduce the discharge of pollutants from developed or redeveloped land;
- (5) To preserve the natural beauty and aesthetics of the community;

- (6) To allow Blount County to exercise the powers granted in Tennessee Code Annotated 68-221-1105.
- (7) To enable Blount County to comply with the National Pollutant Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR 122.26 for discharges from Small Municipal Separate Storm Sewer Systems (MS4s), Total Maximum Daily Loads (TMDLs), and other applicable state and federal regulations.

**SECTION 2. Rules Applying to Resolution.** For the purpose of this resolution, certain rules of construction shall apply as follows:

- (1) Words used in the present tense shall include the future tense and the singular includes the plural, unless otherwise indicated in the text.
- (2) The term “shall” or “must” is always mandatory and not discretionary. The words “may” and “should” are permissive in nature.
- (3) Except as herein provided, all words used in this resolution shall have their common dictionary definition.

**SECTION 3. Definitions.**

- (1) “Applicant.” Person submitting the application for a grading permit. Typically, this is the owner or operator of the land-disturbing activity.
- (2) “As-Built Drawings.” As-built, field verified plans signed and sealed by a registered professional engineer and/or a registered land surveyor, both licensed to practice in the State of Tennessee, showing contours, elevations, grades, and location of drainage and hydraulic structures and permanent best management practices.
- (3) “Best Management Practices (BMP or BMPs).” Schedules of activities, prohibitions of practices, maintenance procedures, water quality management facilities, structural controls and other management practices designed to prevent or reduce the pollution of waters of the United States and to provide water quality treatment and channel protection in accordance with this resolution. Water quality BMPs may include structural devices, such as stormwater ponds, extended detention ponds or bio-retention areas, or non-structural practices such as vegetated buffers, water quality buffers or natural open spaces.
- (4) “Board of Zoning Appeals.” The body that has been delegated with the authority by the Commission of Blount County to hear appeals concerning decisions made by the Stormwater Director or his designee regarding the interpretation of the meaning of this resolution.
- (5) “Construction.” Any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises.
- (6) “Covenants for Permanent Maintenance of Water Quality Best Management Practices.” A legal document executed by the property owner, or a homeowners’ association as an owner of record, and recorded with the Blount County Register of Deeds which guarantees perpetual and proper maintenance of BMPs.

- (7) “Detailed Plans.” Plans required by the Blount County Stormwater Department that present detailed information on the stormwater drainage structures and control measures that will be constructed for a proposed development or redevelopment.
- (8) “Developer.” The person, firm or corporation, either public or private, engaged in the development of land, as defined below.
- (9) “Development.” A development includes any of the following activities:
  - (a) The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
    - i. 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,
    - ii. 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.
  - (b) A subdivision of land.
  - (c) The process of grading, clearing, filling, quarrying, construction, or reconstruction to improved or unimproved real estate or other similar activities.
- (10) “Easement.” A legally-dedicated right-of-way for the purposes of allowing the County to manage or inspect infrastructure, site access or stormwater flow within specified boundaries.
- (11) “Grading Permit.” A permit issued to authorize land-disturbing activities including excavation and/or fill to be performed under the guidelines of the Blount County Erosion and Sediment Control Resolution No. 09-03-004.
- (12) “Hotspot.” An area where the land use or activities generate or have the potential to generate highly contaminated runoff, with concentrations in excess of those typically found in stormwater.
- (13) “Impervious Surfaces.” Areas that prevent or impede the infiltration of stormwater into the soil as it infiltrated in natural conditions prior to development. Common impervious areas include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, compacted gravel and soil surfaces, awnings and other fabric or plastic coverings.
- (14) “Land-disturbing Activity.” 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, redevelopment, demolition of structures, construction, reconstruction, clearing, grading, filling, landscaping, transporting, and excavation.
- (15) “NPDES.” National Pollutant Discharge Elimination System.
- (16) “Operator.” In the context of construction activity stormwater, operator means any person associated with a construction project that meets either of the following two criteria:
  - (a) this person has operational control over construction plans and specifications, including the ability to authorize modifications to those plans and specifications. This person is typically the owner or developer of the project or a portion of the project, or;

- (b) this person has day-to-day operational control of those activities at a project site which are necessary to ensure compliance with a site plan, sketch plan, WQMP, or grading permit for the site or other permit conditions. This person is typically a contractor or commercial builder and is often authorized to direct workers at a site to carry out activities required by approved plans or comply with other permit conditions.
- (17) “Owner or Property Owner.” The legal owner of the property as recorded in the Blount County Register of Deeds office at the time of application of the grading permit.
- (18) “Person.” Any individual, firm, corporation, partnership, association, organization or entity, including governmental entities, or any combination thereof.
- (19) “Policy Manual.” The *Policy Manual for Stormwater Quality Management* prepared and maintained by Blount County through the Stormwater Department that contains policies, technical criteria, tools and guidelines and other supporting documentation for implementation of the provisions of this resolution.
- (20) “Project.” The entire proposed development regardless of the size of the area of land to be disturbed.
- (21) “Redevelopment.” The improvement of a lot or lots that have been previously developed.
- (22) “River.” See “Stream.”
- (23) “Sediment.” Solid material, both inorganic (mineral) and organic, that is in suspension, is being transported, or has been moved from the site of origin by wind, water, gravity, or ice as a result of erosion.
- (24) “Sedimentation.” The action or process of forming or depositing sediment.
- (25) “Stormwater.” Also “stormwater runoff” or “runoff.” Surface water resulting from rain, snow, or other form of precipitation, which is not absorbed into the soil and results in surface water flow and drainage.
- (26) “Stormwater Program Director.” The individual appointed by the County Mayor to administer the Blount County Stormwater Program.
- (27) “Stream.” The linear surface water conveyance that can be characterized with either perennial or ephemeral base flow and:
- (a) has published floodplain elevations that have been computed as part of an approved flood study; or
  - (b) are identified as a blue line on a 7.5-minute USGS quadrangle, unless otherwise designated by Tennessee Department of Environmental Conservation (TDEC); or
  - (c) are determined to be streams by Blount County, the United States Army Corps of Engineers (USACE) or Tennessee Department of Environmental Conservation (TDEC).
- (28) “Structure.” Anything constructed or erected such that the use of it requires a more or less permanent location on or in the ground. Structures include but are not limited to buildings, towers, smokestacks, overhead transmission lines, carports and walls.
- (29) “Total Maximum Daily Load (TMDL).” A calculation of the maximum amount of a pollutant that a water body can receive and still meet water quality standards, and

an allocation of that amount to the source(s) of the pollutant as determined by TDEC.

- (30) “Urbanized Area.” A land area comprising one or more places – central place(s) – and the adjacent densely settled surrounding area – urban fringe – that together have a residential population of at least 50,000 and an overall population density of at least 1,000 people per square mile as determined by the most recent United States Census. Determination of the urbanized area can be supplied by the Blount County Stormwater Department.
- (31) “Variance.” A grant of relief from the requirements of this resolution that permits construction or activities in a manner otherwise prohibited by this resolution, where specified enforcement would result in unnecessary hardship.
- (32) “Water Quality Management Plan (WQMP).” An engineering plan for the location and/or design of BMPs within a proposed development or redevelopment. A WQMP includes a map showing the extent of the land development activity and location of BMPs, design calculations for BMPs, and, when applicable, includes As-Built Plans and Covenants for Permanent Maintenance of Best Management Practices.
- (33) “Water Quality Volume Reduction.” A decrease in the water quality volume for one or more areas of a proposed development which is obtained only for specific site development features or approaches that can reduce or eliminate the discharge of pollutants in stormwater runoff. Water quality volume reductions can only be obtained when specific guidelines presented in the Policy Manual for Stormwater Quality Management, as defined by Blount County, are met.
- (34) “Water Quality Volume Reduction Areas.” Areas within the proposed development or redevelopment for which a water quality volume reduction can be obtained.
- (35) “Waters of the State.” Any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through, or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine or affect a junction with natural surface or underground waters.
- (36) “Wetland.” An area that is 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. A wetland determination shall be made by the United States Army Corps of Engineers, and/or the Tennessee Department of Environment and Conservation, and/or the Natural Resources Conservation Service, or a qualified professional that has been trained in the identification and delineation of wetland areas.

#### **SECTION 4. Authority.**

- (1) The Stormwater Program Director and the staff under the Stormwater Program Director’s supervision shall administer the provisions of this resolution.
- (2) The Stormwater Program Director or his/her designee has the authority to promulgate rules, regulations, policies, enforcement and guidance consistent with this resolution in order to carry out the meaning and intent through a Blount County Policy Manual for Stormwater Quality Management (or Policy Manual)

promulgated and enforced by the Stormwater Program Director or his/her designee. The policies, criteria and requirements stated in the Policy Manual shall be enforceable, consistent with other provisions of this resolution.

- (3) In the event that the Stormwater Program Director or his/her designee determines that a violation of any provision of this resolution has occurred, or that work does not have a required permit, or that work does not comply with an approved plan or permit, the Stormwater Program Director or his/her designee may issue a Notice of Violation to the permittee or property owner and/or any other person or entity having responsibility for activities performed at a development, at which time the penalty provisions of this resolution shall be implemented.

#### **SECTION 5. Requirement for Submittal of a Water Quality Management Plan (WQMP).**

- (1) No individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, city, county, or other political subdivision, cooperative, or any other legal entity shall engage in any land-disturbing activity within the unincorporated, urbanized areas of Blount County without meeting the requirements of this resolution, unless exempted from obtaining a grading permit under Section 5 of the Blount County Erosion and Sediment Control Resolution No. 09-03-004.
- (2) Any new development or redevelopment projects that will result in a land-disturbing activity that is equal to or greater than one (1) acre including projects less than one (1) acre that are part of a larger common plan of development or sale, that must obtain a grading permit, unless exempted from obtaining a grading permit under Section 5 of the Blount County Erosion and Sediment Control Resolution No. 09-03-004, shall submit a WQMP for approval by the Stormwater Program Director or his/her designee.
- (3) The WQMP shall be submitted as part of the erosion prevention and sediment control plan, or formal plan, in accordance with and as required by the Blount County Erosion and Sediment Control Resolution No. 09-03-004.
- (4) No grading or building permit shall be issued until a WQMP has been approved by the Stormwater Program Director or his/her designee.
- (5) Developments or redevelopments of any size that received approval of formal plans prior to the effective date of this resolution or developments or redevelopments for which a WQMP was not required prior to the effective date of this resolution shall be exempted from the requirements of this resolution.

#### **SECTION 6. General Requirements.**

- (1) The WQMP shall include all of the required elements that are listed and/or described in the Policy Manual. The Stormwater Program Director or his/her designee may require submittal of additional information in the WQMP as necessary to allow an adequate review of the existing or proposed site conditions. Omission of any required items shall render the plans incomplete and they will be returned to the applicant for required changes prior to approval by the Stormwater Program Director or his/her designee.

- (2) The WQMP shall be subject to any additional requirements set forth in the subdivision regulations, zoning regulations, building codes regulations, subdivision regulations for the Cities of Alcoa and Maryville when applicable, or other Blount County regulations.
- (3) The WQMP shall be prepared and stamped by a professional engineer, landscape architect, or architect competent in civil and site design and licensed to practice in the State of Tennessee. Portions of the WQMP that require hydraulic and/or hydrologic calculations and design shall be prepared and stamped by a professional engineer competent in civil and site design and licensed to practice in the State of Tennessee.
- (4) The approved WQMP shall be followed during grading and construction activities. Under no circumstance is the owner or operator of land development activities, or any person(s) acting on the owner's behalf, allowed to deviate from the approved WQMP without prior written approval of a plan amendment by the Stormwater Program Director or his/her designee.
- (5) The approved WQMP shall be amended if the proposed site conditions change after plan approval is obtained, or if it is determined by the Stormwater Program Director or his/her designee during the course of grading or construction that the approved plan is inadequate.
- (6) Other State and/or Federal permits that may be necessary for construction in and around streams and/or wetlands shall be approved through the appropriate agency and copies provided with the submittal of a WQMP to Blount County.
- (7) BMPs and water quality volume reduction areas shown in WQMPs shall be maintained through the declaration of a protective covenant, entitled "Covenants for Permanent Maintenance of Water Quality Best Management Practices". The covenant must be approved by and shall be enforceable by Blount County. The covenant shall be recorded with the deed and shall run with the land and continue in perpetuity.
- (8) BMPs and water quality volume reduction areas shall be placed into a permanent easement that is recorded with the deed to the parcel and held by Blount County. An access easement for ingress/egress that is continuous from a public right-of-way shall also be provided.
- (9) The owner or operator of any land development activities may be subject to additional watershed or site specific requirements other than those stated in this resolution in order to satisfy local, state or Federal requirements, or where the Stormwater Program Director or his/her designee has determined through stormwater master plans, engineering studies, a history of existing or documented water quality problems, or engineering judgment that additional restrictions are needed to limit adverse impacts of the proposed development on water quality or channel protection. Areas subject to additional requirements may also include developments, redevelopments or land uses that are considered pollutant hotspots.
- (10) The Stormwater Program Director or his/her designee may waive or modify the requirements of this resolution if adequate water quality treatment and channel protection are suitably provided by a downstream or shared off-site BMP, or if engineering studies determine that installing the required BMP(s) would actually

cause adverse impact to water quality or cause increased channel erosion or downstream flooding.

**SECTION 7. Water Quality Treatment Requirements.** All new developments or redevelopments that submit a WQMP shall provide treatment of stormwater runoff in accordance with the following requirements:

- (1) Stormwater runoff generated from the development or redevelopment must be treated for water quality prior to discharging from the property in accordance with the stormwater pollutant removal treatment standard and criteria provided in the Policy Manual.
- (2) The treatment of stormwater runoff shall be achieved through the use of one or more BMPs that are designed and constructed in accordance with the design criteria, guidance and specifications provided in the Policy Manual.
- (3) Methods, designs or technologies for BMPs that are not specified in the Policy Manual may be submitted for approval by the Stormwater Program Director or his/her designee if it is proven that such methods, designs or technologies will meet or exceed the stormwater treatment standards set forth in the Policy Manual and this resolution. Proof of such methods, designs, or technologies must meet the minimum testing criteria set forth in the Policy Manual.
- (4) BMPs shall not be installed within the public right-of-way without prior approval of the Blount County Highway Superintendent and the Stormwater Program Director or his/her designee. For state routes, prior approval will be required by the Tennessee Department of Transportation (TDOT).

**SECTION 8. Channel Protection Requirements.**

- (1) All new developments or redevelopments that are required to submit a WQMP shall provide downstream channel erosion protection by capturing the channel protection volume (the runoff volume from the 1-year frequency, 24-hour storm) and discharging such volume over no less than a 24-hour period using the design methods provided in the Policy Manual.
- (2) Downstream channel erosion protection can be provided by an alternative approach in lieu of controlling the channel protection volume subject to prior approval by the Stormwater Program Director or his/her designee. Sufficient hydrologic and hydraulic analysis showing that the alternative approach will offer adequate channel protection from erosion must be presented in the WQMP.

**SECTION 9. Requirement for Submittal of a Special Pollutant Abatement Permit (SPAP)**

Technical requirements for the permit shall be based on the current Policy Manual and the Blount County Illicit Discharge Resolution No. 08-08-015 subject to the approval of the Stormwater Program Director or his/her designee.

- (1) Specific land uses are known to produce pollutants that are detrimental to water quality and would not be corrected by standard water quality treatment methods. A Special Pollution Abatement Permit is required to ensure that structural and management BMPs are used to control water quality for these uses and that the

BMPs employed are designed to reduce the special pollutant to an acceptable level. Before the approval of structural stormwater treatment devices, the Stormwater Program Director or his/her designee may require valid documentation from full-scale testing by an independent third party to verify that the pollutants of concern will be properly controlled. A Special Pollution Abatement Permit will be valid for a period of five (5) years, at which point it must be renewed. At the time of renewal, any deficiency in the management method must be corrected. Any development that occurs without a required permit shall be in violation of this resolution.

- (2) A Special Pollution Abatement Permit shall be required for the following land uses:
  - a. Vehicle, truck or equipment maintenance, fueling, washing or storage areas including but not limited to: automotive dealerships, automotive repair shops, and car wash facilities;
  - b. Any property containing more than 400 parking spaces, or 120,000 square feet of impervious parking area;
  - c. Recycling and/or salvage yard facilities;
  - d. Restaurants, grocery stores, and other food service facilities;
  - e. Commercial facilities with outside animal housing areas including animal shelters, fish hatcheries, kennels, or veterinary clinics;
  - f. Other producers of pollutants identified by the Stormwater Program Director or his/her designee by information provided to or collected by him or his representatives, or reasonably deduced or estimated by him or his representatives from engineering or scientific study.

#### **SECTION 10. Performance Bond.**

- (1) Prior to plat approval, a performance bond which guarantees satisfactory completion of construction work related to BMPs may be required for a period of two (2) years.
- (2) 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 and in an amount to be determined by the Stormwater Program Director or his/her designee. The actual amount shall be based on submission of plans and estimated construction, installation or potential maintenance and/or remediation expenses.
- (3) The Stormwater Program Director or his/her designee 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.

**SECTION 11. NPDES Permits.** Persons or entities who hold NPDES general, individual and/or multi-sector permits shall provide a copy of such permit and the permit number assigned to them by the Tennessee Department of Environment and Conservation to the Stormwater Program Director or his/her designee prior to the issuance of the County permit.

### **SECTION 12. As-Built Drawings.**

- (1) Prior to the release of a bond, as-built drawings shall be provided to the Stormwater Program Director or his/her designee, certifying that all BMPs comply with the design shown on the approved WQMP(s). Features such as the location and elevation of structural BMPs and water quality volume reduction areas shall be provided to verify approved plans. Other contents of the record drawings must be provided in accordance with guidance provided in the Policy Manual.
- (2) As-built drawings shall include sufficient design information to show that the BMPs required by this resolution will operate as approved. This shall include all necessary computations used to determine percent pollutant removal and the flow rates and treatment volumes required to size BMPs.
- (3) The as-built drawings shall be stamped by the appropriate design professional required to stamp the WQMP, as stated in Section 6, of this resolution, and a registered land surveyor licensed to practice in the State of Tennessee. The appropriate design professional shall certify that the as-built conditions will meet all water quality requirements and the surveyor shall certify the accuracy and completeness of the survey.

### **SECTION 13. Right of Entry.**

- (1) The Stormwater Program Director or his/her designee may enter upon any property that discharges or contributes, or is believed to discharge or contribute, to stormwater runoff or the stormwater system; stream; natural drainageway; or other stormwater system during reasonable hours to monitor, remove foreign objects or blockages, and to inspect for compliance with the provisions of this resolution.
- (2) Failure of a property owner, person(s) working on behalf of the property owner, or other legal occupant of the property, such as a lessee, to allow such entry by the Stormwater Program Director or his/her designee onto a property for the purposes set forth in this resolution shall be cause for the issuance of enforcement actions in accordance with Section 22 through Section 24 of this resolution.

### **SECTION 14. Inspection and Maintenance.**

- (1) The owner(s) of BMPs and/or water quality volume reduction areas or his/her designee shall at regular and appropriate frequencies inspect and properly operate and maintain all BMPs and/or water quality volume reduction areas in such a manner as to maintain their full and intended function. Inspection and maintenance of privately-owned BMPs and water quality volume reduction areas shall be performed at the sole cost and expense of the owner(s) of such features.
- (2) Inspections and maintenance shall be performed in accordance with the requirements provided in the Policy Manual. The Stormwater Program Director or his/her designee has the authority to impose more stringent inspection and maintenance requirements as necessary for purposes of water quality protection and public safety.
- (3) Inspection and maintenance activities shall be documented by the property owner or his/her designee. Such documentation shall be maintained by the property owner for a minimum of three (3) years, and shall be made available for review by the Stormwater Program Director or his/her designee

- (4) Prior to release of the performance bond, the property owner shall provide Blount County with an accurate as-built drawing of the property and an executed covenant for all BMPs and water quality volume reduction areas. The property owner shall record these items with the Blount County Register of Deeds. The location of the BMPs and water quality volume reduction areas, and the easements associated with each of these features shall be shown on a plat that is also recorded with the Blount County Register of Deeds.
- (5) The removal of sediment and other debris from BMPs shall be performed in accordance with all Blount County, State and Federal laws. Guidelines for sediment removal and disposal are referenced in the Policy Manual. The Stormwater Program Director or his/her designee may stipulate additional guidelines if deemed necessary for public safety.
- (6) This resolution does not authorize access to neighboring private property by the owner of BMPs or water quality volume reduction areas or his/her designee. Arrangements for access to neighboring private property by the property owner or his/her designee for purposes of compliance with this resolution must be handled solely by the owner or his/her designee, and the owner(s) of the neighboring property.

#### **SECTION 15. Corrective Actions.**

The Stormwater Program Director may order the property owner or his/her designee to perform corrective actions to BMPs or water quality volume reduction areas as necessary to properly maintain the full and intended function of the features for the purposes of water quality treatment, channel erosion protection, or water quality volume reduction, to ensure adherence to local performance standards, and ensure public safety. If the property owner or his/her designee fails to perform corrective actions, the Stormwater Program Director or his/her designee shall have the authority to order the corrective actions to be performed by the County or others. In such cases where a performance bond exists, the County may utilize the bond to perform the corrective actions. In cases where a performance bond does not exist, or is not sufficient to perform the corrective actions, the County may perform such actions or hire others to perform such actions and the property owner shall reimburse the County for double its direct and related expenses. If the property owner fails to reimburse the County in accordance with this section, Blount County is authorized to file a lien for said costs against the property and to enforce the lien by judicial foreclosure proceedings.

#### **SECTION 16. Feature Integrity.**

Any alteration, improvement, or disturbance to BMPs or water quality volume reduction areas that are shown in certified as-built drawings shall be prohibited without authorization from the Stormwater Program Director or his/her designee. This does not include alterations or repairs that must be made in order to maintain the full and intended function of the BMPs or water quality volume reduction areas.

**SECTION 17. Conflict and Severability.**

- (1) This resolution is not intended to repeal, abrogate, or impair any existing easements, covenants, deed restrictions or existing resolutions and regulations. However, where the provisions of this resolution and other regulation conflict or overlap, that provision which is more restrictive or imposes higher standards or requirements shall prevail. It is required that the Stormwater Program Director or his/her designee be advised of any such regulatory conflicts upon submittal of a WQMP.
- (2) Each separate provision of this resolution is deemed independent of all other provisions herein so that if any provision or provisions of this resolution shall be declared invalid, all other provisions thereof shall remain enforceable.

**SECTION 18. Responsibility.**

This resolution does not imply a warranty or the assumption of responsibility on the part of Blount County for the suitability, fitness or safety of any structure with respect to flooding, water quality or structural integrity. This resolution is a regulatory instrument only, and is not to be interpreted as an undertaking by Blount County to design any structure or facility.

**SECTION 19. Enforcement During Construction.**

- (1) The requirements of this resolution shall be enforced by the Stormwater Program Director or his/her designee who shall inspect all the work, grading or construction involved. Failure to properly install or maintain BMPs or water quality volume reduction areas as specified on the approved WQMP will result in the following actions:
  - (a) First offense – Written warning requiring corrective action that includes a deadline for compliance. If conditions warrant, a stop work order will be immediately issued. Corrective actions will be in accordance with Section 15 of this resolution.
  - (b) Second offense – A notice of violation, a stop work order and suspension of all County inspections until the violation is corrected.
  - (c) Third offense – A court citation and civil penalty of a minimum of fifty dollars (\$50.00) per day per violation and a maximum of five thousand dollars (\$5,000.00) per day per violation and possible damage assessment.
  - (d) Any performance bond posted may be forfeited based on the circumstances if compliance is not achieved after notice of violation within the time specified in the notice. Any grading or building permit granted may also be suspended.
- (2) All stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action(s) or mitigation has occurred and the Stormwater Program Director or his/her designee has approved the corrective action(s). Such notice shall be in writing and shall be given to the owner of the property, or an agent of the owner, or the person in charge of the job site; or conspicuously posted at the project location, and shall state the necessary corrective actions with a completion date before other activities can resume.

**SECTION 20. Enforcement After Construction.**

The requirements of this resolution shall be enforced by the Stormwater Program Director or his/her designee who shall inspect the BMPs and water quality volume reduction areas at regular and appropriate intervals. Failure to properly maintain BMPs or water quality volume reduction areas to their full and intended function shall result in a written requirement for corrective action that includes a deadline for compliance. Corrective actions will be in accordance with Section 15 of this resolution. If conditions warrant, the issuance of enforcement actions will be immediately issued. A court citation and civil penalty of a minimum of fifty dollars (\$50.00) per day per violation and a maximum of five thousand dollars (\$5,000.00) per day per violation and possible damage assessment may also be levied on the property owner by Blount County.

**SECTION 21. Variances.** The Stormwater Program Director or his/her designee may waive or modify any of the general criteria which are deemed inappropriate or too restrictive for site conditions, by granting a variance as set forth herein. Variances may be granted in writing under the following conditions:

- (1) At the time of plan submission, an applicant may request variances to become part of the approved WQMP. The applicant must explain the reasons for requesting variances in writing and must submit documentation that the issuance of a variance will not result in a reduction in water quality. Specific variances which are allowed must be documented on the approved WQMP.
- (2) During construction, a permit holder may request variances to the approved WQMP. Until such time as the amended plan is approved by the County, the land-disturbing activity and associated construction shall not proceed, except in accordance with the WQMP as originally approved.

Absent universal circumstances, a response to the variance request should be given by the County within ten (10) working days. Without a written approval, no variance shall be considered valid.

**SECTION 22. Unlawful Acts.** Any person who:

- (1) Violates any provision of this resolution;
- (2) Violates the provisions of any permit issued pursuant to this resolution;
- (3) Fails or refuses to comply with any lawful notice to abate issued by the Stormwater Program Director or his/her designee, which has not been timely appealed to the Board of Zoning Appeals (BZA), within the time specified by such notice; or
- (4) Violates any lawful order of the County or the Board of Zoning Appeals within the time allowed by such order; shall be guilty of a violation. Each day of such violation or failure or refusal to comply shall be deemed a separate offense and punishable accordingly.

**SECTION 23. Penalties.**

- (1) Any person violating the provisions of this resolution shall be guilty and punished as provided in the general provisions of this resolution. Each day that a continuing violation of this resolution is maintained or permitted to remain shall constitute a separate offense.

- (2) Any person violating the provisions of this resolution may be assessed a civil penalty by the County through the Stormwater Department of not less than fifty dollars (\$50.00) nor more than five thousand dollars (\$5,000.00) per day for each day of the violation. Each violation shall constitute a separate offense. The County, through the Stormwater Department, may also recover all damages proximately caused to the County by such violation.
- (3) In assessing the civil penalty, the County, through the Stormwater Department, may consider:
  - a. the harm done to the public health or the environment;
  - b. whether the civil penalty imposed will be of 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 County;
  - f. the amount of penalty established by ordinance or resolution for specific categories for violations, if any; and
  - g. any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.
- (4) In addition to the civil penalty in sub-section (3) above, the County, through the Stormwater Department, may recover all damages proximately caused by the violator to the County which may include any reasonable expenses and attorneys fees incurred in investigating, enforcing and/or correcting the violations of this resolution.
- (5) The County may bring legal action to enjoin the continuing violation of this resolution and the existence of any other remedy in law or equity shall be no defense to any such action.
- (6) The remedies set forth in this section shall be cumulative, not exclusive, and is not to be a defense to any action, civil or criminal, that one or more of the remedies set forth herein has been sought or granted.

**SECTION 24. Notice of Violation.** Whenever the Stormwater Program Director or his/her designee determines that a violation of any provision of this resolution has occurred, the Stormwater Program Director or his/her designee may issue a Notice of Violation to the property owner or operator, utility, facility operator, lessee, tenant, contractor, permittee, the equipment operator and/or any other person or entity doing work on the site of the land-disturbing activity. The Notice of Violation shall:

- (1) be in writing;
- (2) include a description of the property sufficient for identification of where the violation(s) has occurred;
- (3) list the violation(s);
- (4) state the action(s) required; and
- (5) provide a deadline for compliance or to stop work.

**SECTION 25. Judicial Proceedings and Relief.**

- (1) The legal counsel designated by the County Mayor may initiate proceedings seeking legal and/or equitable relief in any court of competent jurisdiction against any person who has:
  - (a) Violated the provisions of this resolution;
  - (b) Violated the provisions of any permit issued pursuant to this resolution;
  - (c) Failed or refused to comply with any lawful order issued by the Stormwater Program Director or his/her designee, which has not been timely appealed to the Board of Zoning Appeals within the time allowed by this resolution; or
  - (d) Violated any lawful order of the Board of Zoning Appeals within the time allowed by such order.
- (2) The legal counsel designated by the County Mayor may also initiate civil proceedings in any court of competent jurisdiction seeking monetary damages for any damages caused to publicly-owned stormwater facilities by any person.

**SECTION 26. Appeals.** Appeal or review of a civil penalty or damage assessment under this section may be made to the Board of Zoning Appeals (BZA) of Blount County by any person incurring a damage assessment or civil penalty. Such review shall be requested within thirty (30) days after the damage assessment or civil penalty is served by filing a written notice of appeal with the BZA. If a petition for review of such damage assessment or civil penalty is not filed within thirty (30) days after the damage assessment or civil penalty is served in any manner authorized by law, the violator shall be deemed to have consented to the damage assessment or civil penalty and it shall become final. Upon receipt of an appeal, the BZA shall hold a public hearing within sixty (60) days or a later date mutually agreed upon by both parties. Ten (10) days prior, notice of the time, date and location of said hearing shall be published in the Maryville-Alcoa Daily Times or its equivalent local paper. Ten (10) days notice shall be provided to the aggrieved party at the address provided at the time of the appeal.

The alleged violator may appeal a decision of the Board of Zoning Appeals, pursuant to the provisions of State law found in Title 27, Chapter 8.

**SECTION 27. Effective Date.** The provisions of this resolution shall take effect immediately upon final passage, the public welfare requiring it.

ADOPTED this 18th day of June, 2009.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
DATE

ATTEST:

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