

RESOLUTION SPONSORS: Robert Ramsey and Wendy Pitts Reeves

RESOLUTION NO. 08-08-015

**A RESOLUTION ADOPTING REGULATIONS TO PROTECT WATER QUALITY IN THE UNINCORPORATED AREAS OF BLOUNT COUNTY BY PROHIBITING, SUPPRESSING, AND PREVENTING THE CONTAMINATION OF STORM WATER BY ILLICIT DISCHARGE OF POLLUTANTS.**

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**WHEREAS**, Tenn. Code Ann. § 5-1-118(c) authorizes counties, by adoption of a resolution by two-thirds (2/3) vote of their respective legislative bodies, to exercise those powers granted to all or certain municipalities by Tenn. Code Ann. § 6-2-201(22) and (23), with specified exceptions; and

**WHEREAS**, on September 21, 2000, the Board of County Commissioners of Blount County, Tennessee, by a vote of 20 in favor, 0 opposed, and 1 absent adopted Resolution No. 00-09-01 authorizing Blount County to exercise said powers granted to all or certain municipalities; and

**WHEREAS**, upon the adoption of said Resolution No. 00-09-01 and pursuant to Tenn. Code Ann. § 6-2-201(22), Blount County became authorized to define, prohibit, abate, suppress, prevent, and regulate all acts, practices, conduct, businesses, occupations, callings, trades, uses of property and all other things whatsoever detrimental, or liable to be detrimental, to unincorporated areas of the county and to exercise general police powers; and

**WHEREAS**, Tenn. Code Ann. §§ 68-221-1101-1106 authorizes counties to adopt regulations for storm water discharges and contaminants in order to protect water quality in their respective unincorporated areas; and

**WHEREAS**, pursuant to the authority of Tenn. Code Ann. §§ 5-1-118(c), 6-2-201(22) and 68-221-1101-1106 and Resolution No. 00-09-01, Blount County desires to revise the previously adopted regulations hereinafter set forth to protect water quality in the unincorporated areas of Blount County by prohibiting, suppressing, and preventing the contamination of storm water by illicit discharge of pollutants.

**NOW, THEREFORE, BE IT RESOLVED** the Board of County Commissioners of Blount County, Tennessee, meeting in regular session assembled this 21st day of August, 2008, that the following regulations to protect water quality in the unincorporated areas of Blount County by prohibiting, suppressing, and preventing the contamination of storm water by illicit discharge of pollutants are hereby adopted to wit:

# **ILLICIT DISCHARGE RESOLUTION**

## **SECTION 1. Definitions.**

**Gray water** - Non-industrial waste water generated from domestic processes such as dishwashing, laundry, bathing, etc.

**Illicit discharge** - Any discharge to the stormwater system that is not composed entirely of stormwater and not specifically exempted in **Section 3 b**.

**Person** - Any and all persons, including any individual, firm, partnership, entity, or association, and any municipal or private corporation organized or existing under the laws of this or any other state.

**Pollutant hotspot** – An area where the land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

**Restaurant** - An establishment or facility where food is prepared and sold.

**Runoff** - The water resulting from precipitation that is not absorbed by the soil.

**Sanitary sewer** - A system of underground conduits that collect and deliver sanitary wastewater to a wastewater treatment plant.

**Sanitary wastewater** - Wastewater from toilets, sinks and other plumbing fixtures.

**Sewage** - Human wastes carried by water from residences, buildings, industrial establishments or other places, together with such industrial wastes, stormwater or other water as may be present; or any substance discharged from a sanitary sewer collection system.

**Sinkhole**- (1.) A naturally occurring depression where drainage collects in the earth's surface that is a minimum of two (2) feet deep. These depressions are typically denoted as closed contours. (2.) A hole, fissure or other opening in the ground, often underlain with limestone, dolomite or other rock formation that provides for and is being designated as a natural conduit for the passage of stormwater.

**Stormwater system** - The system of roadside drainage including roadside curbs and gutters, curb inlets, swales, catch basins, manholes, gutters, ditches, pipes, lakes, ponds, sinkholes, channels, creeks, streams, storm drains, and similar conveyances and facilities, both natural and manmade, located within the county which are designated or used for collecting, storing, or conveying stormwater, or through which stormwater is collected, stored or conveyed, whether owned or operated by Blount County or any other person.

**Swale** - A natural or manmade depression or wide shallow ditch used to route or filter runoff.

**Vegetation** - Collection of plant life, including trees, shrubs, bushes, and grass.

**Wastes, industrial/commercial** - Liquid or other wastes resulting from any process of industry, manufacture, trade or business, or from the development of any natural resources.

**Wastes, other** - Discarded brush; sawdust; shavings; leaves; lawn clippings; animal wastes; used or previously applied lime; garbage; trash; refuse, used paper, paper products, plastic containers, or metal containers; ashes, offal, discarded tar; discarded paint; discarded or uncontained solvents; used, discarded, or spilled petroleum products, antifreeze, motor vehicle fluids; used or discarded gas tanks or chemicals; or any other used, uncontained, or unpackaged, or disposed of materials which may discharge to or otherwise enter the stormwater system.

## **SECTION 2. Purpose.**

The Board of County Commissioners of Blount County, Tennessee finds that the uncontrolled discharge of pollutants to the stormwater system has an adverse impact upon the water quality of the receiving waters.

- (a) The 1987 amendments to the Federal Water Pollution Control Act, commonly known as the Clean Water Act, established the National Pollutant Discharge Elimination System (NPDES) program, which requires permits for discharges from stormwater systems into waters of the United States. The Environmental Protection Agency has promulgated regulations implementing the NPDES program.
- (b) The NPDES regulations for stormwater discharges require certain municipalities, including Blount County, to:
  - (1) Prohibit through ordinance, order or similar means, illicit discharges to the stormwater system;
  - (2) Develop and implement a plan to detect and address non-stormwater discharges including illegal dumping;
  - (3) Implement appropriate enforcement procedures and actions; and
  - (4) Enable the county to comply with the NPDES General Permit, TMDLs (total maximum daily loads), and other applicable state and federal regulations.

## **SECTION 3. Prohibitions.**

- (A) No person shall:
  - (1) Connect, or allow to be connected any sanitary sewer to the stormwater system, including any sanitary sewer connected to the stormwater system as of the date of adoption of this resolution, or
  - (2) Cause or allow an illicit discharge to the stormwater system, or any component thereof, or onto driveways, sidewalks, parking lots, sinkholes, creek banks, or other areas draining to the stormwater system. Illicit discharges include, but are not limited to:
    - (a) Sewage discharges except as deemed unavoidable due to collection system operation/maintenance and extreme weather events;
    - (b) Discharges resulting from the cleaning, repair, or maintenance of any type of equipment, machinery, or facility including motor vehicles, cement-related equipment, or port-a-potty servicing, etc.;
    - (c) Discharges of wash water from mobile operations such as mobile automobile washing, steam cleaning, power washing, and carpet cleaning, etc;

- (d) Discharges of wash water from the cleaning or hosing of impervious surfaces in industrial and commercial areas including parking lots, streets, sidewalks, driveways, patios, plazas, work yards, or outdoor eating or drinking areas, etc.;
  - (e) Discharges of runoff from material storage areas containing chemicals, fuels, grease, oils, or other hazardous materials;
  - (f) Discharges of pool or fountain water containing chlorine, biocides, or other chemicals at the point of entry to the enclosed storm sewer system or stream; discharges of pool or fountain filter backwash water;
  - (g) Discharges of heated water from commercial or industrial operations;
  - (h) Discharges of dyes without proper permission;
  - (i) Discharges of gray water (see definition);
  - (j) Known discharges from leaking water or sewer lines remaining uncorrected for seven (7) days;
  - (k) Discharges or discarding of animal fecal waste or dead animals;
  - (l) Discarding of vehicles, equipment or parts;
  - (m) Discarding lawn clippings, leaves, or branches;
  - (n) Discarding trash or debris; and
  - (o) Discarding or applying pesticides, herbicides, fertilizers, or other chemicals.
- (3) Discharge from the following land uses, areas or activities that are identified herein as pollutant hotspots:
- (a) Vehicle, truck or equipment maintenance, fueling, washing or storage areas including but not limited to: gas stations, 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 area;
  - (c) Recycling and/or salvage yard facilities;
  - (d) Restaurants, grocery stores and other food service facilities (e.g., grease, food processing, restaurant kitchen mats, and trash bin wash water, etc.);
  - (e) Commercial facilities with outside animal housing areas, including animal shelters, fish hatcheries, kennels, livestock stables, veterinary clinics, or zoos;
  - (f) Construction areas (e.g., sediment or other construction-related wastes, etc.);
  - (g) Other producers of pollutants identified by the Stormwater Director or his/her designee by information provided to or collected by him/her or his/her representatives, or reasonably deduced or estimated by him/her or his/her representatives from engineering or scientific study.
- (B) Subject to the provisions of subsection (C), the following discharges shall not be in violation of this resolution:
- (1) Water line flushing;
  - (2) Landscape irrigation;
  - (3) Diverted stream flows or rising groundwater;
  - (4) Infiltration of uncontaminated groundwater [as defined at 40CFR,35.2005 (20)] to separate storm drains;
  - (5) Pumping of uncontaminated groundwater;
  - (6) Discharges from potable water sources, foundation drains, uncontaminated air conditioning condensation, irrigation waters, springs, water from crawl space pumps, or footing drains;
  - (7) Lawn watering;

- (8) Individual noncommercial car washing on residential properties; or car washing of less than two (2) consecutive days in duration for a charity, nonprofit fund raising, or similar noncommercial purpose;
  - (9) Flows from riparian habitats and wetlands;
  - (10) Dechlorinated swimming pool discharges;
  - (11) Street deicing for public safety;
  - (12) Any activity authorized by a valid NPDES permit; and
  - (13) Any flows resulting from firefighting.
- (C) If the Stormwater Director or his/her designee finds that any of the activities listed in subsection (B) above are found to cause or may cause sewage, industrial wastes, or other wastes to be discharged into the stormwater system, the Director or his/her designee shall notify the person performing such activity and shall order that such activities be stopped or conducted in such a manner as to avoid the discharge of sewage, industrial wastes or other wastes into the stormwater system.

**SECTION 4. Notification of spills and illicit discharges.**

As soon as any person has knowledge of any illicit spills or discharges to the stormwater system in violation of this resolution, such person shall immediately notify the Stormwater Department by telephone of this discharge. If such person is directly or indirectly responsible for such discharge or responsible for the operation of the system or business, then such person shall also take immediate action to ensure the containment and cleanup of such discharge and shall confirm such telephone notification with a written report to the Stormwater Department within three (3) calendar days.

At a minimum, the written report for any illicit discharge shall include:

- a. Date and time of the discharge
- b. Location of the discharge
- c. Material or substance discharged
- d. Duration and rate of flow
- e. Total volume discharged
- f. Total volume recovered
- g. Cause or reason for the discharge
- h. Remediation and containment action taken
- i. Material Safety Data Sheets (MSDS) for the discharged material(s)
- j. Action taken to prevent further discharges
- k. Description of any environmental impact

**SECTION 5. Requirements for monitoring.**

The Stormwater Department may require any person engaging in any activity or owning any property, building or facility (including but not limited to a site of industrial activity) to undertake such reasonable monitoring of any discharge(s) to the stormwater system and to furnish periodic detailed reports of discharges and/or illicit discharges.

**SECTION 6. Right of entry.**

The Stormwater Director or his/her designee may enter upon any property which discharges or contributes, or is believed to discharge or contribute, to stormwater runoff or to the

stormwater system; stream; natural drainage way; or other stormwater system during all reasonable hours to monitor, remove foreign objects or blockages, or to inspect for compliance with the provisions of this resolution.

## **SECTION 7. Special Pollution Abatement Permit.**

Stormwater can be negatively impacted by many pollutants other than sediment. These pollutants can have very different pathways into the stormwater system, modes of transport, rates of breakdown and effects on the environment. For this reason, they must be handled on a case-by-case basis.

A Special Pollution Abatement Permit (SPAP) may be required for new developments and redevelopments on the basis of: 1) land use or type of business; 2) a history of air or water pollution at a site; 3) a history of air or water pollution by an owner/operator at other sites; 4) the potential to impact environmentally sensitive areas, such as wetlands; or 5) at the discretion of the Stormwater Director or his/her designee upon sound engineering judgment. SPAPs are required for the following hotspot land uses:

- (A) **Vehicle maintenance, washing or storage facilities.** Pollution prevention activities for vehicle maintenance, washing, or storage land uses must focus on spill prevention and cleanup, oil and other fluid and material recycling, pre-treatment of wash water or runoff from maintenance areas, staff education on proper pollution prevention techniques, and customer education about the activities that are or are not acceptable on the premises. For businesses where vehicles will be stored, pollution prevention activities must also include routine inspection of the vehicles for leaks or discharges. Drip pans must be used to capture leaks and discharges until the vehicle can be maintained or fluids should be drained completely from vehicles that will remain unused. Discharges of wash water resulting from the hosing or cleaning of vehicles, equipment and/or facilities is considered an illegal non-stormwater discharge. Therefore, wash water must be prevented from entering the stormwater system. These activities could include blocking the stormwater system or diverting the wash water into a pre-treatment measure and then into the sanitary sewer system.
- (B) **Recycling and salvage yard facilities.** Where the land use is a business that recycles or salvages vehicles or other equipment, the pollution prevention practices for that site should address draining the equipment of all fluids before storage. If the storage area is uncovered, pre-treatment controls are required to treat additional pollutants that could result from the storage or deterioration of the equipment or vehicles before the runoff discharges to a traditional best management practice (BMP).
- (C) **Restaurants, grocery stores, and other food service facilities.** Grease and organic pollutants are typically encountered around restaurants, grocery stores, and other food service facilities. Pre-treatment to remove such pollutants prior to discharging to traditional BMPs is required, in order to prevent clogging of downstream BMPs and the stormwater system. As well, wash water from equipment and/or facility cleaning activities must either be discharged to the sanitary sewer or be pre-treated prior to discharging to a traditional BMP.

- (D) **Commercial facilities that temporarily or permanently house animals outside.** Animal housing facilities, such as veterinary clinics, kennels, fish hatcheries and animal shelters, have the potential to deliver higher than normal bacterial loadings to the stormwater system. High counts of bacteria in streams and rivers can cause water quality impairments, but can also cause illnesses in people. Pollution prevention practices for these types of facilities must include pet waste management practices, such as collecting and properly disposing of pet waste at landfills or wastewater treatment facilities. Animal bedding should be removed when soiled and properly disposed. Wood shavings or chips must not be allowed to migrate into the stormwater system.

A SPAP is not required for outfalls that have been previously permitted through the state's NPDES program. A copy of the NPDES permit must be submitted to the Blount County Stormwater Department. Typically, the need for a SPAP is identified during plans review.

To obtain coverage under a SPAP, the property or business owner must submit a SPAP application form. In the event that a SPAP is required for a new development or redevelopment site, grading and/or other plans will not be approved until the SPAP application form has been received and approved by the County. The SPAP application requires supporting documentation for the proposed BMP(s), including BMP specifications and maintenance information. An As-Built Certification may be required for any structural BMPs installed at the site.

Once issued, the SPAP will be valid for five (5) years and must be renewed prior to the expiration date. SPAP renewal requires completion and submittal of an updated application form including supporting documentation for the stormwater BMP(s) installed at the site.

Coverage under a SPAP must be renewed if, at any time during the five-year permit period, pollution pre-treatment devices or stormwater BMPs that are reflected in the current SPAP are removed or otherwise significantly altered. A SPAP application that reflects the proposed modifications must be submitted to and approved by the Blount County Stormwater Department prior to instituting the changes. Renewal of a SPAP is not required for routine BMP maintenance and repair activities or for replacement of poorly functioning or failed BMPs as long as the replacement is similar to, in form and function, and serves the same purpose as the original BMP. The following minimum standards shall be addressed in the SPAP application form:

- (A) **Employees and/or staff of the business or land use type shall be trained annually on the requirements of the SPAP,** specifically addressing pollution source controls such as spill control and cleanup, proper waste management, chemical storage, and fluids management with vehicle servicing. The type of training shall be tailored to and appropriate for the land use or business. Documentation of the training shall be maintained with the SPAP and made available to County personnel upon request.
- (B) **Parking lots shall be swept monthly to remove gross solids.** Waste gathered during sweeping activities shall be disposed of properly.
- (C) **Animal waste shall be prevented from entering streams, sinkholes, wetlands, ponds or any other component of the storm drain system.** Controls shall be instituted to collect the animal waste and properly treat or dispose of it.

- (D) **Structural BMPs that have been designed to specifically address the target pollutants associated with the land use shall be utilized where appropriate to reduce pollutant loadings.** Table 1. presents target pollutants for the land uses required to obtain coverage under a SPAP. Additional information regarding structural BMPs may be found within the Blount County Post-Construction Water Quality Resolution.
- (E) **Structural BMPs shall be inspected and maintained by the owner/permittee.** Inspections must be conducted at least annually. Maintenance shall be conducted as needed and as required by the manufacturer or as required by the Stormwater Department. Documentation of such inspections shall be maintained by the owner and made available to County personnel upon request.

**Table 1. Target Pollutants for SPAP Permitted Land Uses**

Land use	Target Pollutant
Vehicle, truck or equipment maintenance, fueling, washing or storage areas including but not limited to: automotive dealerships, automotive repair shops, and car wash facilities	Oil, grease, detergents, solids, metals
Recycling and/or salvage yard facilities	Oil, grease, metals
Restaurants, grocery stores, and other food service facilities	Oil, grease, trash
Commercial facilities with outside animal housing areas including animal shelters, fish hatcheries, kennels, or veterinary clinics	Bacteria, nutrients
Other producers of pollutants identified by the Stormwater Director or his/her designee by information provided to or collected by him/her or his/her representatives, or reasonably deduced or estimated by him/her or his/her representatives from engineering or scientific study	As identified by the Stormwater Director or his/her designee

**SECTION 8. Notice of Violation.**

Whenever the Stormwater Director or his/her designee determines that a violation of any provision of this resolution has occurred, the Director or his/her designee may issue a Notice of Violation to the property owner, utility, facility operator, lessee, contractor, permittee and/or the equipment operator causing and/or contributing to the illicit discharge.

The Notice of Violation shall:

- (1) Be in writing;
- (2) Include a description of the property sufficient for identification of where the violation has occurred;
- (3) List the violation;
- (4) State the action required; and
- (5) Provide a deadline for compliance or to stop work.

**SECTION 9. Penalties.**

- (a) Any person violating the provisions of this resolution shall be guilty of a misdemeanor and punished as provided in the general provisions of the County Code. Each day that a continuing violation of this resolution is maintained or permitted to remain shall constitute a separate offense.
- (b) Any person 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 offense. The county may also recover all damages proximately caused to the municipality by such violations.

- (c) 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 the violation;
  - (5) Any unusual or extraordinary enforcement costs incurred by the municipality;
  - (6) The amount of penalty established by ordinance or resolution for specific categories of violations, if any;
  - (7) Any equities of the situation that outweigh the benefit of imposing any penalty or damage assessment;
  - (8) Willingness and cooperation of the violator to remedy this violation and remediate the damage;
  - (9) Whether the violation was intentional, accidental, or negligence;
  - (10) Cost incurred by the county for any administration, remediation, investigation, enforcement, and monitoring of the violation; and
  - (11) Prior violations for this location and/or business.
- (d) In addition to the civil penalty in subsection (b) above, the county may recover all damages proximately caused by the violator to the municipality, which may include any reasonable expenses incurred in investigating violations and enforcing violations of this resolution.
- (e) 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.
- (f) 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.
- (g) Any civil penalty assessed by the county may be appealed to the Blount County Circuit Court.

**SECTION 10. Effective Date.**

This resolution shall take effect upon its adoption, the public welfare requiring it.

**Duly authorized and approved the 21st day of August, 2008.**

**CERTIFICATION OF ACTION:**

**ATTEST:**

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

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

**Approved:**   X  

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

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

\_\_\_\_\_  
Date