

ORDINANCE NO. 2467

AN ORDINANCE TO AMEND THE GATLINBURG MUNICIPAL CODE BY REPEALING CHAPTER 4 OF TITLE 18 IN ITS ENTIRETY AND SUBSTITUTING A NEW CHAPTER IN LIEU THEREOF, AND FURTHER BEING AN ORDINANCE TO ADOPT A STORM WATER ORDINANCE FOR THE CITY.

WHEREAS, the City of Gatlinburg has previously adopted a storm water ordinance for the City but wishes to update and adopt a new version thereof; and

WHEREAS, other cities and the county government are likewise adopting new storm water ordinances in conjunction with one another; and

WHEREAS, the adoption of such an ordinance is in the best interest of the citizens and residents of the City of Gatlinburg, Tennessee.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF GATLINBURG, TENNESSEE:

Section 1. The Gatlinburg Municipal Code is hereby amended by repealing Chapter 4 of Title 18 in its entirety and adopting a new chapter entitled "Storm Water Ordinance" in lieu thereof, said Chapter being identified as "City of Gatlinburg Storm Water Ordinance September 2013", attached hereto and incorporated herein by reference.

Section 2. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 3. This ordinance shall take effect fifteen days from and after its passage, the public welfare requiring it.



MAYOR

ATTEST:



CITY RECORDER

Passed first reading 8/20/13

Passed second reading 9/17/13

APPROVED AS TO FORM:



Ronald E. Sharp, City Attorney

**CITY OF GATLINBURG
STORM WATER
ORDINANCE**

September 2013

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CITY OF GATLINBURG STORM WATER ORDINANCE

Section 1. General Provisions.

- (1). Purpose. It is the purpose of this Ordinance to:
 - (a). Protect, maintain, and enhance the environment of the City of Gatlinburg and the public health, safety and the general welfare of the citizens of the city, by controlling discharges of pollutants to the city's storm water system and to maintain and improve the quality of the receiving waters into which the storm water outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the city.
 - (b). Enable the City of Gatlinburg to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR §122.26 for storm water discharges.
 - (c). Allow the City of Gatlinburg to exercise the powers granted in Tennessee Code Annotated §68-221-1105, which provides that, among other powers municipalities have with respect to storm water facilities, is the power by Ordinance to:
 - (1). Exercise general regulation over the planning, location, construction, operation and maintenance of storm water facilities in the municipality, whether or not owned and operated by the municipality;
 - (2). Adopt any rules and regulations deemed necessary to accomplish the purposes of this Ordinance, including the adoption of a system of fees for services and permits;
 - (3). Establish standards to regulate the quantity of storm water discharged and

to regulate storm water contaminants as may be necessary to protect water quality;

- (4). Review and approve plans and plats for storm water management in proposed subdivisions, planned unit developments, and commercial developments;
- (5). Issue permits for storm water discharges, or for the construction, alteration, extension, or repair of storm water facilities;
- (6). Suspend or revoke permits when it is determined that the permit applicant has violated any applicable Ordinance or condition of the permit;
- (7). Regulate and prohibit discharges into storm water facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and
- (8). Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of storm water contamination, whether public or private.

(2). Administering Entity. The Gatlinburg Public Works Department shall administer the provisions of this Ordinance.

(3). Right of Entry. The authority shall make inspection and investigations, carry on research or take on such other actions as may be necessary to carry out this administration of regulations; enter at all reasonable times upon any property other than dwelling places for the purpose of conducting investigations and studies or enforcing any of the provisions of this ordinance pursuant to TCA 69-3-107 (5) and (6).

Section 2. Definitions.

For the purpose of this chapter, the following definitions shall apply: Words used in the singular

shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

Agricultural operations. Activities related to the production of goods through the growing of plants and/or animals.

As built plans. A drawing that depicts the site conditions as they were actually constructed.

Authority. The department created by the City to administer the provisions of this ordinance.

Borrow Pits. Areas where material is excavated and relocated offsite, and fill sites where materials or earth is deposited by mechanized methods resulting in an increase in elevation or grade.

Best Management Practices or BMPs. Physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, that have been approved by the City of Gatlinburg, and that have been incorporated by reference into this Ordinance as if fully set out therein.

Blue line stream. Any stream, creek, lake, pond, or other body of water shown as a blue line on a 7.5 minute USGS quadrangle map, or as determined by TDEC.

Buffer Zone. A strip of undisturbed perennial native vegetation, either original or re-established, that borders streams and rivers, ponds and lakes, wetlands and seeps. Buffer zones are established for the purposes of slowing water runoff, enhancing water infiltration, and minimizing the risk of any nutrients or pollutants from leaving the upland area and reaching surface waters.

Buffer means, as used in this ordinance, an area parallel to the top of the bank of a stream, river,

creek, pond, lake, or other body of water and which runs along the length or circumference of a body of water for the purpose of protecting a body of water from non-point source pollutants, including eroding soils.

Channel means a natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.

Clearing. Typically refers to the removal of vegetation and disturbance of soil prior to grading or excavation in anticipation of construction activities. Clearing may also cover a wide variety of uses, many of which may not be regulated within the scope of storm water management.

Common plan of development or sale. This term is broadly defined as any announcement or documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, survey markings, etc.) indicating construction activities may occur on a specific plot. A common plan of development or sale identifies a situation in which multiple areas of disturbance are occurring on contiguous areas. This applies because the activities may take place at different times, on different schedules, by different operators.

Community water means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the City of Gatlinburg.

Contaminant means any physical, chemical, biological, or radiological substance or matter in water.

Design storm event means a hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a storm water facility.

Diameter-at-breast-height (DBH) means the diameter, in inches, of a tree trunk as measured

four and one-half feet above the ground. If the tree splits into multiple trunks below four and one-half feet, the trunk is measured at its most narrow point beneath the split. Diameter-at-breast-height is used as a measurement standard for relatively large trees.

Discharge means dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the municipal separate storm sewer system.

Easement means an acquired privilege or right of use or enjoyment that a person, party, firm, corporation, municipality or other legal entity has in the land of another.

Erosion means the removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by anthropogenic activities or effects.

Erosion and sediment control plan means a written plan (including drawings or other graphic representations) that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

Exceptional and mature tree means a tree consistent with one of the following characteristics: (1) Any hardwood tree which has a DBH of ten inches or greater, any evergreen tree which has a DBH of 15 inches or greater, and/or any Dogwood (*Cornus florida*) or Redbud (*Ceris canadensis*) which has a caliper of more than four inches; (2) Any specimen tree; and (3) Any public tree.

Hotspot (priority area). Means an area where land use or activities may generate highly contaminated runoff with concentrations of pollutants in excess of those typically found in storm water. Hotspots include, but are not limited to: garages, repair shops, junk yards, detailing shops,

car wash waste water, restaurants (where grease traps are maintained), commercial properties with large paved parking areas, factories, retail facilities, manufacturing plants, storage lots, maintenance areas, sanitary waste water, effluent from septic tanks and alternative sewer systems, carpet cleaning waste water, laundry waste water/ gray water and household toxics;

Illicit connections means illegal and/or unauthorized connections to the Municipal separate storm water system whether or not such connections result in discharges into that system.

Illicit discharge means any discharge to the municipal separate storm sewer system that is not composed entirely of storm water and not specifically exempted under 3(3).

Improved Sinkhole. A natural surface depression that has been altered in order to direct fluids into the hole opening. Improved sinkhole is a type of injection well regulated under the Underground Injection Control (UIC) program. Underground injection constitutes an intentional disposal of waste waters into natural depression, open fractures, and crevices (such as those commonly associated with weathering limestone).

Land disturbing activity means any activity on property that result in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation.

Linear Project. A land disturbance activity as conducted by an underground/overhead utility or highway department, including but not limited to any cable line or wire for transmission of electrical energy; and conveyance pipeline for transportation of gaseous or liquid substance; any cable line or wire or communications' or any other energy resource transmission ROW or utility infrastructure, e.g., roads and highways. Activities include the construction and installation of these utilities within a corridor. Linear project activities also include the construction of access

roads, staging areas, and borrow/spoil sites associated with the linear project. Land disturbance specific to the development of residential and/or commercial subdivision or high-rise structures is not considered a linear project.

Maintenance means any activity that is necessary to keep a storm water facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a storm water facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the storm water facility.

Maintenance agreement means a document recorded in the land records that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.

Manager or Inspector. The person appointed by the City to lead the authority.

Municipal Separate Storm Sewer System (MS4) means the conveyances owned or operated by the municipality for the collection and transportation of storm water, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, storm drains, and all other outfall points into community waters.

National Pollutant Discharge Elimination System permit or NPDES permit means a permit issued pursuant to 33 U.S.C. 1342. Nursery means a place where young trees or other plants are raised for transplanting, for sale, or for experimental study.

Off-site facility means a structural BMP located outside the subject property boundary described in the permit application for land development activity.

On-site facility means a structural BMP located within the subject property boundary described in the permit application for land development activity.

Peak flow means the maximum instantaneous rate of flow of water, at a particular point, that results from a storm event.

Person or owner means any and all persons, natural or artificial, including any individual, firm or association and any municipal or private corporation organized or existing under the laws of this or any other state or country.

Priority area means hot spot as defined herein.

Quality Assurance Site Assessment. A documented site inspection to verify the functionality and performance of the SWPPP and for determining if construction, operation and maintenance accurately comply with permit requirements, as presented in the narrative, engineering specification, maps, plans, drawing, and details for erosion prevention, sediment control and storm water management.

Runoff means that portion of the precipitation on a drainage area that is discharged from the area into the municipal separate storm water system.

Sediment means solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.

Sedimentation means soil particles suspended in storm water that can settle in streambeds and disrupt the natural flow of the stream.

Soils Report means a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees.

Stabilization means providing adequate measures, vegetative and/or structural, that will prevent

erosion from occurring.

Steep Slope. A natural or created slope of 30% grade or greater.

Storm water means storm water runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.

Storm water management means the programs to maintain quality and quantity of storm water runoff to pre-development levels.

Storm water management facilities means the drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which storm water is collected, transported, pumped, treated or disposed of.

Storm water management plan means the set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMPs, concepts and techniques intended to maintain or restore quality and quantity of storm water runoff to pre-development levels.

Storm Water Pollution Prevention Plan (SWPPP). A written plan that includes site map(s) identifying construction/contractor activities that could cause pollutants in storm water runoff, and a description of the measures or best management practices to be used to prevent and control pollution from the site.

Storm water runoff means the flow on the surface of the ground, resulting from precipitation.

Storm water utility means the Public Works Department of the City to administer the storm water management ordinance, and other storm water rules and regulations adopted by the municipality.

Structural BMPs means devices that are constructed to provide control of storm water runoff.

Surface water includes waters upon the surface of the earth in bounds created naturally or

artificially including, but not limited to, streams, other watercourses, lakes and reservoirs.

Tennessee Department of Environment and Conservation (TDEC) is the state agency having water pollution control oversight.

TDEC Manuals current sediment and Erosion Control and Post Construction manuals approved by TDEC for storm water system design and installation.

Turbidity. The term refers to the cloudiness or haziness of fluid caused by individual particles (suspended solids) that are generally invisible to the naked eye, similar to smoke in the air.

“Waters” or “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 effect a junction with natural surface or underground waters.

Watercourse means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

Watershed means all the land area that contributes runoff to a particular point along a waterway.

Wetlands. Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted to life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes bogs and similar areas.

Wet weather conveyances. Man-made or natural watercourses including natural watercourses that have been modified by channelization, that flow only in direct response to precipitation runoff in their immediate locality and whose channels are above the groundwater table and

which do not support fish or aquatic life and are not suitable for drinking water supplies.

Section 3. Land Disturbance Permits.

(1). When required.

(a) Every person will be required to obtain a land disturbance permit from the City of Gatlinburg in the following cases:

(1) All land disturbing activities.

(2). Building Permit. No building permit shall be issued until the applicant has obtained a land disturbance permit where the same is required by this ordinance. If the City becomes aware that construction activity is ongoing, but is not permitted, the City will notify TDEC by supplying the following information to the Knoxville Field Office:

- Construction project or industrial facility location;
- Name of the operator or owner;
- Estimated size of the construction project or type of industrial activity;
- Records of communication with the owner or operator regarding permit requirements.

(3). Exemptions. The following activities are exempt from the permit requirements:

- (a). Any emergency activity that is immediately necessary for the protection of life, property, or natural resource.
- (b). Existing nursery and agricultural operations conducted as a permitted main or accessory use.
- (c). Any logging or agricultural activity that is consistent with an approved farm conservation plan or a timber management plan prepared or approved by the appropriate state or federal agency which is not part of an overall larger planned development.

- (d). Additions or modifications to existing single family structures
- (e). Residential gardening and landscaping activities.

The owner or developer whose land disturbing activity has been exempted from requirements for registration shall nevertheless be responsible for otherwise conducting such activity in accordance with the provisions of this ordinance and other applicable laws including the responsibility for controlling erosions and sedimentation. Where individual lots or sections in a subdivision are being developed by different property owners, all earth disturbing activities related to the subdivision shall be covered by the approved storm water pollution prevention plan (SWPPP); such developments are subject to the terms of the requirements therein, including but not limited to: gravel construction entrances/exits, necessary erosion controls, concrete washout restrictions, etc.

(4). Application for a land disturbance permit.

- (a). Each application shall include the following:
 - (1). Name of applicant;
 - (2). Business or residence address of applicant;
 - (3). Name, address and telephone number of the owner of the property of record in the office of the assessor of property;
 - (4). Address and legal description of subject property including the tax reference number and parcel number of the subject property;
 - (5). Name, address and telephone number of the contractor and any subcontractor(s) who shall perform the land disturbing activity and who shall implement the erosion and sediment control plan;
 - (6). A statement indicating the nature, extent and purpose of the land disturbing activity including the size of the area for which the permit shall

be applicable and a schedule for the starting and completion dates of the land disturbing activity.

- (7). Where the property includes a sinkhole, the applicant shall obtain from the Tennessee Department of Environment and Conservation appropriate permits.
 - (8). The applicant shall obtain from any other state or federal agency any other appropriate environmental permits that pertain to the property. If Aquatic Resource Alteration Permit (ARAP) is required for a site in areas proposed for active construction, the NOC will not be issued until ARAP application(s) are submitted and deemed by TDEC to be complete. The treatment and disposal of waste water (including but not limited to sanitary waste water) generated during and after the construction must also be addressed. However, the inclusion of those permits in the application shall not foreclose the City of Gatlinburg from imposing additional development requirements and conditions, commensurate with this ordinance, on the development of property covered by those permits.
- (b). Each application shall be accompanied by:
- (1). A sediment and erosion control plan as described in §4(5).
 - (2). A storm water management plan as described in §4(4), providing for storm water management during the land disturbing activity and after the activity has been completed.
 - (3). Each application for a land disturbance permit shall be accompanied by payment of a land disturbance permit and other storm water management fees, which will be established by a separate Ordinance.

(5). Review and approval of application.

- (a). The City of Gatlinburg will review each application for a land disturbance permit to determine its conformance with the provisions of this ordinance. Within 30 days after receiving an application, the City of Gatlinburg shall provide one of the following responses in writing:
- (1). Approval of the permit application;
 - (2). Conditional approval of the permit application, subject to such reasonable conditions as may be necessary to secure substantially the objectives of this ordinance, and issue the permit subject to these conditions; or
 - (3). Denial of the permit application, indicating the reason(s) for the denial.
- (b). If the City of Gatlinburg has granted conditional approval of the permit, the applicant shall submit a revised plan that conforms to the conditions established by the City of Gatlinburg. However, the applicant shall be allowed to proceed with his land disturbing activity so long as it conforms to conditions established by the City of Gatlinburg.
- (c). No development plans will be released until the land disturbance permit has been approved.
- (d). Limitations. The City shall not grant land disturbance permits for discharges into waters that are designated by the Water Quality Control Board as "Outstanding National Resource Waters" (ONRW). An individual permit is required for land disturbance activities and is available from the Tennessee Department of Environment and Conservation.

(6). Permit duration. Every land disturbance permit shall expire and become null and void if

twenty-five (25) percent of work authorized by such permit has not commenced within one hundred eighty (180) calendar days of issuance, and the permit life shall be three hundred sixty-five (365) days unless granted an extension. Extensions shall be applied for thirty (30) days prior to the end of the three hundred sixty-five (365) day permit period.

(7). Notice of construction. The applicant must notify the City of Gatlinburg no less than ten (10) working days prior to the commencement of land disturbance. A pre-construction conference may be required for certain land disturbing activities.

(8). Performance bonds.

(a). The City of Gatlinburg may require the submittal of a performance security or performance bond prior to issuance of a permit in order to ensure that the storm water practices are installed by the permit holder as required by the approved storm water management plan. The amount of the installation performance security or performance bond shall be the total estimated construction cost of the structural BMPs approved under the permit plus any reasonably foreseeable additional related costs, e.g., for damages or enforcement. The performance security shall contain forfeiture provisions for failure to complete work specified in the storm water management plan. The applicant shall provide two (2) itemized construction cost estimates complete with unit prices that shall be subject to acceptance, amendment or rejection by the City of Gatlinburg Public Works Department. Alternatively the City of Gatlinburg Public Works Department shall have the right to calculate the construction cost estimates.

(b). The performance security or performance bond shall be released in full when written certification, by a registered professional engineer licensed to practice in Tennessee,

has been provided verifying that the structural BMP has been installed in accordance with the approved plan and other applicable provisions of this ordinance. The City of Gatlinburg Public Works Department will make a final inspection of the structural BMP to ensure that it is in compliance with the approved plan and the provisions of this ordinance. Provisions for a partial pro-rata release of the performance security or performance bond based on the completion of various development stages can be made at the discretion of the City of Gatlinburg Public Works Department.

(9). Transfer of Ownership:

- (a). Some construction projects, such as residential or commercial subdivisions and/or developments or industrial parks involve the subdivision of property. Subdivided lots are sometimes sold to new owners prior to completion of construction. The site developer/owner must describe erosion control and sediment prevention measures implemented at each individual lot. Once the property is sold, the new operator must obtain coverage under this permit.
- (b). If the transfer of ownership is due to foreclosure or bankruptcy proceedings, the new owner (including but not limited to a lending institution) must obtain permit coverage if the property is inactive, but is not stabilized sufficiently. If the property is sufficiently stabilized, permit coverage may not be necessary until construction activity at the site resumes.

(10). Inspections:

- (a). The permit holder shall perform inspections of erosion and sediment control practices on construction sites as indicated by the current NPDES Permit twice weekly and at least 72 hours apart. Based on the results of the inspection(s), any

inadequate control measures or control in disrepair shall be replaced, modified or repaired as necessary. Inspections shall be documented and kept on-site.

(b). Quality assurance of erosion prevention and sediment controls shall be done by performing site assessment at a construction site. The site assessment shall be conducted at each outfall involving drainage totaling 10 acres or more (of disturbed and undisturbed acreage combined) or 5 or more acres if draining to impaired or exceptional quality waters, within 1 month of construction commencing. The site assessment shall be performed by individuals with the following qualifications:

- (i). A licensed professional engineer or landscape architect;
- (ii). A Certified Professional in Erosion and Sediment Control (CPESC); or
- (iii). A person that has successfully completed the “Level II Design Principles for Erosion Prevention and Sediment Control for Construction Sites” course.

At a minimum, a site assessment should be performed to verify the installation, functionality and performance of the erosion prevention and sediment control measures described in the SWPPP. The site assessment findings shall be documented and the documentation kept with the SWPPP on site. The site assessment should be performed with the site inspector, and should include a review and update (if applicable) of the SWPPP. Modifications of plans and specifications for any building or structure, including the design of sediment basin or other sediment controls involving structural, hydraulic, hydrologic or other engineering calculations shall be performed by a licensed engineer or landscape architect and stamped and certified in accordance with state law. The site assessment can take the place of one of the twice

weekly inspections.

- (c). The City shall perform inspections on priority construction sites and other construction sites as warranted by site location and complaints. If the City determines that the permit holder has failed to properly install, maintain, or use proper structural or vegetative erosion and sediment control practices as specified in the erosion and sediment control plan and the post construction design and maintenance plan, the permit holder may be subject to a stop work order or additional penalties as set forth in Section 10 of this Ordinance;
- (d). The City may require an inspection by an engineer licensed in the State of Tennessee for any erosion and sediment control measure or post construction storm water management facility to ensure they meet the design standards as described in the Construction Site and Post Construction Site plans;
- (e). If the City determines that significant erosion or sedimentation is occurring on a graded site despite approved structural or vegetative erosion and sediment control practices, the City shall require the permit holder to take additional corrective action to protect the adversely affected area. The additional corrective action required shall be part of an amended erosion and sediment control plan;
- (f). Where sites or portions of construction sites have been temporarily stabilized, or runoff is unlikely due to winter conditions (e.g., site covered with snow or ice) or due to extreme drought, such inspection only has to be conducted once per month until thawing or precipitation results in runoff or construction activity resumes. Inspection requirements do not apply to definable areas that have been finally stabilized;

- (g). Inspections and maintenance for post construction storm water facilities shall be performed as required in Section 5 for post construction design and maintenance.

Section 4. Storm Water System Design and Management Standards.

(1). Storm water design or BMP manual.

- (a). Adoption. The City of Gatlinburg adopts as its storm water design and best management practices (BMP) manual the following publications, which are incorporated by reference in this ordinance as is fully set out herein:

- (1). current TDEC Sediment and Erosion Control Manual
- (2). current TDEC Manual for Post Construction Storm Water facilities and BMPs that are designed, constructed and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.

- (b). The BMP manual includes a list of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each storm water practice. The BMP manual may be updated and expanded from time to time by ordinance, of the governing body of the City of Gatlinburg, upon the recommendation of the City of Gatlinburg Public Works Department, based on improvements in engineering, science, monitory and local maintenance experience. Storm water facilities that are designed, constructed and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.

- (2). General performance criteria for storm water management. The following performance criteria shall be addressed for storm water management at all sites:

- (a). All site designs shall control the peak flow rates of storm water discharge associated with a two (2) year, 24 hour frequency design storms to reduce the generation of post construction storm water runoff to pre-construction levels. These practices should seek to utilize pervious areas for storm water treatment and to infiltrate storm water runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.
- (b). To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the BMP manual.
- (c). Storm water discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain storm water management practices.
- (d). Storm water discharges from hot spots may require the application of specific structural BMPs and pollution prevention practices.
- (e). Prior to or during the site design process, applicants for land disturbance permits shall consult with the City of Gatlinburg Public Works Department to determine if they are subject to additional storm water design requirements.
- (f). The calculations for determining peak flows as found in the BMP manual shall be used for sizing all storm water facilities.
- (g). In conjunction with Federal Emergency Management Agency (FEMA) requirements, storm water receiving inlets shall not restrict the flow of floodwaters resulting in increased flood heights.

(3). Minimum control requirements.

- (a). Storm water designs shall meet the multi-stage storm frequency storage requirements as identified in the BMP manual.
- (b). If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the City of Gatlinburg Public Works Department may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

(4). Storm water management plan requirements. The storm water management plan shall include sufficient information to allow the City of Gatlinburg Public Works Department to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing storm water generated at the project site. To accomplish this goal the storm water management plan shall include the following:

(a). Topographic Base Map: A 1" = one hundred (100) feet topographic base map of the site which extends a minimum of 100 feet beyond the limits of the proposed development and indicates:

- (1). Existing surface water drainage including streams, ponds, culverts, ditches, sinkholes, wetlands, high quality and/or impaired streams, and the type, size, elevation, etc., of nearest upstream and downstream drainage structures;
- (2). Current land use including all existing structures, locations of utilities,

roads, and easements;

- (3). All other existing significant natural and artificial features;
- (4). Proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading;
- (5). Proposed structural BMPs;
- (6). A written description of the site disturbance activity and justification of any proposed changes in natural conditions may be required.
- (7). Erosion and sediment controls must be properly selected and installed in accordance with good engineering practices before earth moving operations begin. Effective erosion prevention and sediment controls should be designed, installed and maintained to minimize the discharge of pollutants. At a minimum, such controls must be designed, installed and maintained to:
 - (i) Control storm water volume and velocity within the site to minimize soil erosion;
 - (ii) Control storm water discharges, including both peak flow rates and total storm water volume, to minimize erosion at outlets and to minimize downstream channel stream bank erosion;
 - (iii) Minimize the amount of soil exposed during construction activity;
 - (iv) Minimize the disturbance of steep slopes;
 - (v) Eliminate (or minimize if complete elimination is not possible) sediment discharges from the site. The design, installation and

maintenance of erosion prevention and sediment controls must address factors such as the design storm and soils characteristics, including the range of soil particle sizes expected to be present on the site;

(vi) Provide and maintain natural buffers around surface waters, direct storm water to vegetated areas to increase sediment removal and maximize storm water infiltration, unless unfeasible; and

(vii) Minimize soil compaction and, unless unfeasible, preserve topsoil.

- (8). Temporary measures may be removed at the beginning of the day but must be replaced at the end of the work day;
- (9). Construction must be sequenced and phased on all projects regardless of size as a major practice to minimize exposure of bare soil and limit sediment discharges. Construction must be phased to keep the total disturbed area less than 50 acres at any one time.
- (10). Pre-construction vegetative ground cover shall not be disturbed more than fifteen (15) days prior to grading or earth moving unless the area is seeded or mulched or other temporary cover is installed. Erosion prevention and sediment control measures must be in place and functional before earth moving activities begin, and must be constructed and maintained throughout the construction period;
- (11). For common drainage locations that serve ten (10) or more acres disturbed at one time, a temporary or permanent sediment basin must be installed, or 5 or more acres if draining to impaired or exceptional quality waters;
- (12). Soil stabilization measures shall be initiated within seven (7) days on a

portion where construction activity has temporarily or permanently ceased. Where precluded by snow cover or frozen ground conditions stabilization measures shall be initiated as soon as possible. Stabilization measures do not have to be initiated where disturbing activities will resume within fifteen (15) days;

- (13). Temporary or permanent soil stabilization shall be accomplished within fifteen (15) days after final grading or other earth work. For steep slopes, temporary stabilization must begin no later than 7 days after construction activity on the slope has temporarily or permanently ceased;
- (14). Sediment should be removed from sediment traps, silt fences, sedimentation ponds and other sediment controls as necessary and must be removed when design capacity has been reduced by fifty percent (50%);
- (15). Soil, sediment, and debris brought onto streets, roads and public ways must be removed by the end of the work day by machine, broom, shovel, etc. to the satisfaction of the Authority. Any time work is performed on or adjacent to any road in the City of Gatlinburg, safety will be the primary consideration. Safety considerations will extend to the travelling public, local bystanders, and work crews. Work crews will strictly adhere to the Manual of Uniform Traffic Control Devices, Part VI, Work Zone Safety. Failure to remove the sediment, soil or debris shall be deemed as a violation of this ordinance.
- (16). Whenever construction access routes intersect paved public roads, provisions must be made to minimize the transport of sediment off site. A

- gravel designated construction entrance should extend a minimum of fifty (50) feet from the edge of the hard surface of the public road onto the site;
- (17). Public roads should be thoroughly cleaned of any sediment transported off the site by the end of each work day or more often if deemed necessary;
 - (18). A permanent vegetative cover shall be established on areas subject to land disturbing activity not otherwise permanently stabilized. Established permanent vegetation should be mature enough to control soil erosion satisfactorily and to survive weather conditions;
 - (19). Operators of construction sites must control waste such as litter, construction debris, chemicals, concrete truck washout and sanitary waste from being a source of storm water pollution. After use, silt fences should be removed and disturbed areas stabilized;
- (b). Calculations: Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in the BMP manual. These calculations must show that the proposed storm water management measures are capable of controlling runoff from the site in compliance with this ordinance and the guidelines of the BMP manual. Such calculations shall include:
- (1). A description of the design storm frequency, duration, and intensity where applicable;
 - (2). Time of concentration;
 - (3). Soil curve numbers or runoff coefficients including assumed soil moisture

- conditions;
- (4). Peak runoff rates and total runoff volumes for each watershed area;
 - (5). Infiltration rates, where applicable;
 - (6). Culvert, storm water sewer, ditch and/or other storm water conveyance capacities;
 - (7). Flow velocities;
 - (8). Data on the increase in rate and volume of runoff for the design storms referenced in the BMP manual; and
 - (9). Documentation of sources for all computation methods and field test results.
 - (11). All documents must be sealed and certified by a professional engineer licensed to practice in the State of Tennessee.
 - (12). Documentation detailing the amount of water for infiltration, evapotranspiration, harvest and/ or reuse as required by runoff reduction requirements.
 - (13). Any calculations documenting credits for meeting terms of Incentives Standards for runoff reduction.
 - (14). Calculations of amounts of rainfall that must be treated prior to discharge with a technology reasonably expected to remove 80% of the total suspended solids (TSS) where runoff reduction standards cannot be met.
 - (15). Calculations for the amount of rainfall to be mitigated if runoff reduction cannot be accomplished;
 - (16). Other Calculation Information and Requirements:

- (a). If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the City may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff;
- (b). Projects discharging to waters considered impaired by sediment or habitat alteration due to in-channel erosion, the SWPPP shall include a description of measures that will be installed during the construction process to control pollutants and any increase in the volume of storm water discharges that will occur after construction operations have been completed by the developer. For steep slope sites, the SWPPP shall also include a description of measures that will be installed to dissipate the volume and energy of the storm water runoff to pre-development levels;
- (c). Velocity dissipation devices shall be placed at locations and along the length of any outfall channel to provide a non-erosive velocity flow from the structure to the receiving stream so that the natural physical and biological characteristics and functions of the stream are maintained and protected (e.g. there should be no significant changes in the hydrological regime of the receiving water). The SWPPP shall include an explanation of the technical basis used to select the velocity dissipation devices to control pollution where flows exceed pre-development levels. The Tennessee Erosion and Sediment Control Handbook provides measures that can be incorporated into the design or implemented on site to decrease erosive velocities. An Aquatic Resources Alteration Permit (ARAP) may

be required if such velocity dissipation devices installed would alter the receiving stream and/or its bank.

(c). Soils Information:

(1). If a storm water management (Post Construction) control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.

(2). Instances in which pipes, culverts, or other types of storm water or utility conduits are located within and/or pass through an earthen berm, special care shall be taken to choose an appropriate soil type, which is properly compacted so that all piping remains stable and watertight.

(d). Runoff Reduction

As required by the NPDES General Permit for Discharges from a Small Municipal Separate Storm Sewer System (MS4s), runoff reduction is required by this Ordinance. Site design for all new and redevelopment projects in urbanized areas require, in combination or alone, management measures that are designed, built and maintained to infiltrate, evapotranspire, harvest and/or use, at a minimum, the first inch of every rainfall event preceded by 72 hours of no measureable precipitation. This first inch of rainfall must be 100% managed with no discharge to surface waters.

- (a). Limitations to the application of runoff reduction requirements include, but are not limited to:
 - (i.) Where a potential for introducing pollutants into the groundwater exists, unless pretreatment is provided;
 - (ii.) Where pre-existing soil contamination is present in areas subject to contact with infiltrated runoff;
 - (iii.) Presence of sinkholes or karst features;
- (b). Pre-development infiltrative capacity of soils at the site must be taken into account in selection of runoff reduction management measures.
- (c). Incentive Standards for redeveloped sites: a 10% reduction in the volume of rainfall to be managed for any of the following types of developments. Such credits are additive so that a maximum reduction of 50% of the runoff reduction requirements for a project that meets all 5 criteria:
 - (i.) redevelopment;
 - (ii.) Brownfield redevelopment;
 - (iii.) High density (>7 units per acre);
 - (iv.) Vertical density
 - (v.) Mixed use and Transit Oriented Development (within ½ mile).
- (e). Pollutant Removal

For projects in urbanized areas that cannot meet 100% of the runoff reduction requirement unless subject to the incentive standards, the remainder of the stipulated amount of rainfall must be treated prior to discharge with a technology reasonably expected to remove 80% of the total suspended solids (TSS). The

treatment technology must be designed, installed and maintained to continue to meet this performance standard in perpetuity.

A determination that standards cannot be met on site may not be based solely on the difficulty or cost of implementing measures, but must include multiple criteria that would rule out an adequate combination of filtration, evapotranspiration and reuse such as: lack of available area to create the necessary infiltrative capacity; a site use that is inconsistent with capture and reuse storm water; physical conditions that preclude use of these practices.

(f). Off-site Mitigation

For projects in urbanized areas that cannot meet 100% of the runoff reduction requirements, the Authority may allow runoff reduction measures to be implemented at another location within the same USGS 12- digit hydrologic unit code (HUC) as the original project. Off-site mitigation must be a minimum of 1.5 times the amount of water not managed on site. The off-site mitigation location (or alternative location outside the HUC 12) and runoff reduction measures must be approved by the Authority. The Authority shall identify priority areas within the watershed in which mitigation projects can be completed by the applicant. The Authority will select the mitigation project from an inventory of appropriate mitigation projects. The project must meet appropriate institutional standards and provide whatever effort is required to assist the Authority to value, to evaluate, and track the transaction. Mitigation can be used for retrofit or redevelopment projects, but should be avoided in areas of new development.

(g). Payment into Public Storm Water Project Fund

For projects in urbanized areas that cannot meet 100% of the runoff reduction, pollutant removal requirements, or provide for off-site mitigation, the MS4 may allow the owner to make payment into a public stormwater project fund established by the MS4. Payment into a public stormwater project fund must be at a minimum of 1.5 times the estimated cost of on-site runoff reduction controls.

- (h). Maintenance and Repair Plan: The design and planning of all storm water management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans will identify the parts or components of a storm water management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan. A permanent elevation benchmark shall be identified in the plans to assist in the periodic inspection of the facility.
- (i). Landscaping Plan: The applicant must present a detailed plan for management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. Where it is required by the BMP, a registered landscape architect licensed in Tennessee must prepare this plan. This landscaping plan shall comply with the City of Gatlinburg Zoning Ordinance.
- (j). Maintenance Easements: The applicant must ensure access to the site for the purpose of inspection and repair by securing all the maintenance easements

needed. These easements must be binding on the current property owner and all subsequent owners of the property and must be properly recorded in the Sevier County Register of Deeds.

(k). Maintenance Agreement:

(1). The owner of property to be served by an on-site storm water management facility must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owner and all subsequent property owners and shall be recorded in the Sevier County Register of Deeds Office.

(2). The maintenance agreement shall:

(a) Assign responsibility for the maintenance and repair of the storm water facility to the owner of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.

(b) Provide for a periodic inspection by the property owner for the purpose of documenting maintenance and repair needs and ensure compliance with the purpose and requirements of this ordinance. The property owner will arrange for this inspection to be conducted by a registered professional engineer licensed to practice in the State of Tennessee who will submit a sealed report of the inspection to the City of Gatlinburg Public Works Department. It shall also grant permission to the city to enter the property at reasonable times and to inspect the storm water facility to ensure that it is being properly maintained.

- (c) Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, grass cuttings and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other storm water facilities. It shall also provide that the property owner shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the BMP manual.
 - (d) Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the City of Gatlinburg Public Works Department.
 - (e) Provide that if the property is not maintained or repaired within the prescribed schedule, the City of Gatlinburg Public Works Department shall perform the maintenance and repair at its expense, and bill the same to the property owner. The maintenance agreement shall also provide that the City of Gatlinburg Public Works Department cost of performing the maintenance shall be a lien against the property, and shall run with the land and be recorded in the Sevier County Register of Deeds Office.
- (3). The City shall have the discretion to accept the dedication of any existing or future storm water management facility, provided such facility meets the requirements of this ordinance. This also includes adequate and perpetual access and sufficient areas, by easement or otherwise, for inspection and regular maintenance. Any storm water facility accepted by

the City must also meet the City's construction standards and any other standards and specifications that apply to the particular storm water facility in question.

- (l). Sediment and Erosion Control Plans: The applicant must prepare a sediment and erosion control plan for all construction activities that complies with §4(5) below.
- (m). Buffer Plans: The applicant must prepare a buffer plan for all streams, rivers, creeks, ponds, lakes, or other bodies of water that complies with Section 4(6) below.

(5). Sediment and erosion control plan requirements. The sediment and erosion control plan shall accurately describe the potential for soil erosion and sedimentation problems resulting from land disturbing activity and shall explain and illustrate the measures that are to be taken to control these problems. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and potential for off-site damage. The plan shall incorporate designs and standards as described in the current BMP manual adopted in Section 4 as well as the current TNCGP (Tennessee Construction General Permit). When required, a registered professional engineer licensed in the state of Tennessee shall seal the plan. The plan must:

- (1). Identify all potential sources of pollution which are likely to affect the quality of storm water discharges from the construction site;
- (2). Describe practices to be used to reduce pollutants in storm water discharges from the permitted construction sites;
- (3). Assure compliance with the terms and conditions of this permit.

Erosion prevention and sediment control measures shall be designed according to the size and slope of disturbed drainage areas with the goal of detaining runoff and trapping sediment. Erosion prevention and sediment controls shall be designed to control the rainfall and runoff from a 2 year, 24 hour storm, as a minimum, either from total rainfall in the designated period or the equivalent intensity as specified on the following website http://hdsc.nws.noaa.gov/hdsc/pdfs/orb/tn_pdfs.html. These specific details for constructing stabilized construction entrance/exits, concrete washouts, sediment basins for controlling erosion, and road access points, etc., should be designed to eliminate or keep soils, sediment, and/or debris to a minimum. For sites with over 10 acres disturbed at one time a temporary (or permanent) sediment basin that provides storage for a calculated volume of runoff from a 2-year, 24 hour storm for each acre drained, or equivalent control measures, shall be provided until final stabilization of the site. Where no such calculation has been performed, a temporary (or permanent) sediment basin providing 3,600 cubic feet of storage per acre drained, or equivalent control measures, shall be provided until final stabilization of the site. All sites that are draining to either sediment impaired or high quality waters identified by TDEC, on the most current 303(d) list, shall be designated at a minimum to control storm runoff generated by a 5-year, 24 hour storm event. For sites over 5 acres that are draining to either sediment impaired or high quality waters refer to the latest edition of the Tennessee Construction General Permit (TNCGP) Section 4.4. Discharge Into Impaired or High Quality Waters for design controls. The plan shall also conform to the requirements found in the BMP manual, and shall include at least the following:

- (a). Project Description -Briefly describe the intended project and proposed land

disturbing activity including number of units and structures to be constructed and infrastructure required.

- (b). A topographic map with contour intervals of five (5) feet or less showing present conditions and proposed contours resulting from land disturbing activity.
- (c). All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or flood plains and high quality and/or impaired streams.
- (d). A general description of existing land cover. Individual trees and shrubs do not need to be identified.
- (e). Stands of existing trees, as they are to be preserved upon project completion, specifying their general location on the property. Differentiation shall be made between existing trees to be preserved, trees to be removed and proposed planted trees. Tree protection measures must be identified, and the diameter of the area involved must also be identified on the plan and shown to scale. Information shall be supplied concerning the proposed destruction of exceptional and mature trees, having a caliper of at least 12 inches, in setbacks and buffer strips, where they exist. Complete landscape plans may be submitted separately. The plan must include the sequence of implementation for tree protection measures.
- (f). Approximate limits of proposed clearing, grading and filling.
- (g). Approximate flow volumes of existing storm water leaving any portion of the site.
- (h). A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.
- (i). Location, size and layout of proposed storm water and sedimentation control improvements.

- (j). A general location map and a site map indicating the location of any high quality and/or impaired streams, drainage patterns and approximate slopes anticipated after major activities, areas of soil disturbance, and outline of areas which are not to be disturbed, the size and location of major structural and nonstructural controls identified in the plan, the location of areas where stabilization practices are expected to occur, the location of receiving water(s), locations of discharges directly into or immediately up stream of high quality or impaired waters, wetlands, sinkholes and locations where storm water is discharged to a surface water. All outfalls where runoff will leave the property should be identified. Stream(s) receiving the discharge, and storm sewer system(s) conveying the discharge from all site outfalls should be clearly identified and marked on the map. NOIs for linear projects must specify the location of each end of the construction are and all areas to be disturbed. Commercial and/or industrial builders that develop separate SWPPPs that cover only their portion of the project shall also submit a site or plat map that clearly indicates the lot(s) which they are applying for permit coverage and the location of streams, conveyances, storm sewer connections and outfalls leaving the permitted portion of the property.
- (k). Proposed drainage network.
- (l). Proposed drain tile or waterway sizes.
- (m). Approximate flow volumes leaving site and their location after construction and incorporating water run-off mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems, including but not limited to, high quality and/or impaired waters,

wetlands, sinkholes, and locations where storm water is discharged to surface water. The location, size and layout of proposed storm water and sedimentation control improvements are required. The plan must address the adequacy of outfalls from the development: when water is concentrated, what is the capacity of waterways, if any, accepting storm water off-site; and what measures, including infiltration, sheeting into buffers, etc., are going to be used to prevent the scouring of waterways and drainage areas off-site, etc.

- (n). The projected sequence of work represented by the grading, drainage and sedimentation and erosion control plans as related to other major items of construction, beginning with the initiation of excavation and including the construction of any sediment basins or retention facilities or any other structural BMP's.
- (o). Specific remediation measures to prevent erosion and sedimentation run-off. Plans shall include detailed drawings of all control measures used; stabilization measures including vegetation and non-vegetation measures, both temporary and permanent, will be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan.
- (p). Specific details for: the construction of rock pads, wash down pads, and settling basins for controlling erosion; road access points; eliminating or keeping soil, sediment, and debris on streets and public ways at a level acceptable to the City of Gatlinburg Public Works Department. Soil, sediment, and debris brought onto streets and public ways must be removed by the end of the workday by machine, broom or shovel to the satisfaction of the City of Gatlinburg Public Works

Department. Failure to remove the sediment, soil or debris shall be deemed a violation of this ordinance.

- (q). Proposed structure location (to the extent possible) and identification of any proposed additional buildings, structures or development on the site.
- (r). A description of on-site measures to be taken to recharge surface water into the ground water system through infiltration.
- (s). When land disturbance activities are proposed along a 303(d) listed stream impaired for siltation or a known high quality waterway, the erosion and sediment control plan shall be designed at a minimum to control the discharge of the five (5) year twenty-four (24) hour storm event along with other additional minimum standards outlined in the current TNCGP for Discharges of Storm Water Associated with Construction Storm Activities (4.4.1).
- (t). The SWPPP must include documentation supporting a determination of permit eligibility with regard to waters that have an approved TMDL for pollutant of concern, including:
 - 1. Identification of whether the discharge is identified, either specifically or generally, in an approved TMDL and any associated wasteload allocations, site specific requirements, and assumptions identified for the construction storm water discharge;
 - 2. Summaries of consultation with the City and TDEC on consistency of SWPPP conditions with the approved TMDL, and;
 - 3. Measures taken to ensure that the discharge of TMDL identified pollutants from the site is consistent with the assumptions and requirements of the approved

TMDL, including any specific wasteload allocation that has been established that would apply to the construction storm water discharge.

(u). Plans Modification(s)

(1). A SWPPP must be modified and updated if any of the following are met:

(i) Whenever there is a change in the scope of the project, which would be expected to have a significant effect on the discharge of pollutants to the waters of the state and which has not otherwise been addressed in the SWPPP;

(ii) When inspections or investigations by site inspectors, local, state or federal officials indicate the SWPP is proving ineffective in eliminating or significantly minimizing pollutants from being discharged, or is otherwise not achieving the general objectives of controlling pollutants in storm water discharges associated with construction activity.

(iii) To identify any new permittee (e.g., owner, contractor, sub-contractor) as needed to reflect operational or design control that will implement a measure of the SWPPP;

(iv) To include measures necessary to prevent a negative impact to legally protected state or federally listed fauna or flora;

(v) A TMDL is developed for the receiving water(s) for a pollutant of concern (siltation and/ or habitat alteration).

(2). In the event the Authority finds that a permittee is complying with the SWPPP, but contributing to the impairment of a receiving stream, then the discharger will be notified by the Authority in writing that the discharge is

no longer eligible for coverage under the general permit. The permittee may update the SWPPP and implement the necessary changes designed to eliminate further impairment to the stream. If the permittee does not implement the SWPPP changes within a reasonable amount of time, the operator must file an individual permit with TDEC. To obtain the individual permit, the operator must file an individual permit application (EPA 1 & 2F). The project must be stabilized immediately until the SWPPP is updated and the individual permit is issued. Only discharges from earth disturbing activities necessary for stabilization are authorized to continue until the individual permit is issued.

(v). Other Items Requiring Control:

- (a) No solid materials, including building materials, shall be placed in waters of the state, except as authorized by a section 404 permit and/or ARAP Permit.
- (b) For installation of any waste disposal systems on site, or sanitary sewer or septic system, the SWPPP shall identify these systems and provide for the necessary erosion prevention and sediment controls. Permittees must also comply with applicable state and /or local waste disposal, sanitary sewer or septic system regulations for such systems to the extent these are located within the permitted area.
- (c) The SWPPP shall include a description of construction and waste materials expected to be stored on site. The SWPPP shall also

include a description of controls used to reduce pollutants from materials stored on site, including storage practices to minimize exposure of the materials to storm water, and spill prevention and response.

(d) A description of storm water sources from areas other than construction and description of controls and measures that will be implemented at those sites.

(e) A description of measures necessary to prevent a “taking” or legally protected state or federal listed threatened or endangered aquatic fauna and/or critical habitat (if applicable). The permittee must describe and implement such measures to maintain eligibility for coverage under the permit.

Section 5. Post Construction.

(1). As built plans. A final inspection by the City of Gatlinburg Public Works Department is required before any performance security or performance bond will be released. The City of Gatlinburg Public Works Department shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or performance bond on the completion of various stages of development. In addition, Certificate of Occupancy permits shall not be granted until corrections to all BMP’s have been made and accepted by the City of Gatlinburg Public Works Department.

(2). Landscaping and stabilization requirements.

(a). Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall be re-vegetated according to a

schedule approved by the City of Gatlinburg Public Works Department. The following criteria shall apply to re-vegetation efforts:

- (1). Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion.
 - (2). Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.
 - (3). Any area of re-vegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following re-vegetation. Re-vegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.
- (b). In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.
- (3). Inspection of Storm Water Facilities.
- (a). Periodic inspection of facilities shall be performed by the City.
 - (b). In order to ensure that all storm water BMP's are operating correctly and being

properly maintained, the City shall, at a minimum, require owners and/or operators of storm water systems to:

1. Perform routine inspection to ensure that the BMP's are properly functioning. These inspections shall be conducted on an annual basis, at a minimum. These inspections shall be conducted by a person familiar with control measures implemented at a site. Owners or operators shall maintain documentation of these inspections.
2. Perform comprehensive inspections of all storm water management facilities and practices. These inspections shall be conducted once every five (5) years, at a minimum. Such inspections must be conducted by either a professional engineer or landscape architect. Complete inspection reports for these five year inspections shall include:
 - a. Facility type;
 - b. Inspection date;
 - c. Latitude and longitude and nearest street address;
 - d. BNP owner information (e.g. name, address, phone number, fax, and email);
 - e. A description of BMP conditions including: vegetation and soils, inlet and outlet channels and structures, embankments, slopes, safety benches, spillways, weirs, and other structures as well as any sediment and debris accumulation;
 - f. Photographic documentation of BMP's;
 - g. Specific maintenance items or violations that need to be

corrected by the BMP owner along with deadlines and re-inspection dates.

Owners and/or operators shall maintain documentation of these inspections. The City may require submittal of this documentation.

- (4). Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a storm water management facility shall make records of the installation of the storm water facility, and of all maintenance and repairs to the facility, and shall retain the records for at least two (2) years. These records shall be made available to the City of Gatlinburg Public Works Department during inspection of the facility and at other reasonable times upon request.
- (5). Failure to meet or maintain design or maintenance standards. If a property owner fails or refuses to meet the design or maintenance standards required for storm water facilities under this ordinance, the City of Gatlinburg Public Works Department, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the storm water management facility becomes a danger to public safety or public health, the City of Gatlinburg Public Works Department shall notify in writing the property owner or party responsible for maintenance of the storm water management facility. Upon receipt of that notice, the property owner or responsible person shall repair the facility in an approved manner. In the event that corrective action is not completed within the time specified by the City, the City of Gatlinburg Public Works Department may take necessary corrective action. The cost of any action by the City of Gatlinburg Public Works Department under this section shall be charged to the property owner

and/or responsible party/owner of land, shall run with the land and be recorded in the Sevier County Register of Deeds Office.

Section 6. Existing Locations and Developments.

- (1). Requirements for all existing locations and developments. The following requirements may apply to locations and developments where land disturbing activities have occurred previous to the enactment of this ordinance and deemed to create an immediate problem:
 - (a). Denuded or bare areas must be vegetated or covered under the standards and guidelines specified in the BMP manual and on a schedule acceptable to the City of Gatlinburg Public Works Department.
 - (b). Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.
 - (c). Drainage ways shall be properly covered in vegetation or secured with riprap, channel lining, etc., to prevent erosion.
 - (d). Trash, junk, rubbish, etc. shall be cleared from drainage ways.
 - (e). Storm water runoff shall be controlled to the extent reasonable to prevent pollution of local waters.
- (2). Requirements for existing problem locations. The City of Gatlinburg Public Works Department shall in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problem affecting such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance.
- (3). Inspection of existing facilities. The City of Gatlinburg Public Works Department may, to the extent authorized by state and federal law, establish inspection programs to verify that

all storm water management facilities, including those built before as well as after the adoption of this ordinance, are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the municipality's NPDES storm water permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.

- (4). Corrections of problems subject to appeal. Corrective measures imposed by the City of Gatlinburg Public Works Department under this section are subject to appeal under §11 of this ordinance.

Section 7. Illicit Discharges.

- (1). Scope. This section shall apply to all water generated on developed or undeveloped land entering the municipality's separate storm sewer system.
- (2). Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of storm water. The commencement, direction or continuance of any non-storm water

discharge to the municipal separate storm sewer system is prohibited.

(a). Prohibitions. No person shall be allowed to, or continue to do, any of the following:

(1). Connect, or allow to be connected, any sanitary sewer to the storm water system including any sanitary sewer connected to the storm water system as of the date of adoption of this section.

(2). Cause or allow an illicit discharge to the storm water system, or any component thereof, or onto driveways, sidewalks, parking lots, sinkholes, creek banks, or other areas draining to the storm water system. Illicit discharges including, but are not limited to:

(a). Sewage discharges or overflows, including Sanitary Sewer Overflows (SSOs);

(b). Discharges of wash water resulting from the hosing or cleaning of gas stations, auto repair garages, or other types of automotive services facilities;

(c). Discharges resulting from the cleaning, repair or maintenance of any type of equipment, machinery, or facility including motor vehicles, cement related equipment, and port-a-potty servicing; etc.;

(d). Discharges of wash water from mobile operations such as mobile automobile washing, steam cleaning, power washing, and carpet cleaning;

(e). 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, and outdoor eating or drinking areas, etc.,

(f). Discharges of runoff from material storage areas containing chemicals, fuels, grease, oil or other hazardous materials;

(g). Discharges of pool or fountain water containing chlorine, biocides, or other

chemicals; discharges of pool or fountain filter backwash water;

(h). Discharges of sediment, or construction-related wastes, etc.;

(i). Discharges of food-related wastes (e.g. grease, fish processing, and restaurant kitchen mat and trash bin wash water, etc.

(b). The commencement, direction or continuance of any non-storm water discharge to the municipal separate storm sewer system is prohibited except as described as follows:

Uncontaminated discharges from the following sources:

- (1). Water line flushing or other potable water sources,
- (2). Landscape irrigation or lawn watering with potable water,
- (3). Diverted stream flows,
- (4). Rising ground water,
- (5). Groundwater infiltration to storm drains,
- (6). Pumped groundwater,
- (7). Foundation or footing drains,
- (8). Crawl space pumps,
- (9). Air conditioning condensation,
- (10). Springs,
- (11). Non-commercial washing of vehicles,
- (12). Natural riparian habitat or wet-land flows,
- (13). Swimming pools (if dechlorinated),
- (14). Fire fighting activities;
- (15). Discharges from potable water sources;
- (16). 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;

(17), Incidental street wash water from street cleaning equipment designed for cleaning paved surfaces and limiting waste discharges;

(18), Street deicing for public safety;

(19), Any activity authorized by a valid NPDES permit, and

(20), Any other uncontaminated water source.

(c). Discharges specified in writing by the City of Gatlinburg Public Works Department as being necessary to protect public health and safety.

(d). Dye testing is an allowable discharge if the City of Gatlinburg Public Works Department has so specified in writing.

(e). Right of Testing. The City may require the owner or operator of any facility engaging in any activity where this permit is required to undertake such reasonable monitoring of any discharges to the City's Separate Storm Sewer System (CS4) and to furnish periodic detailed reports of such discharges.

(f). Third Party Testing. All third party testing and analysis should be in accordance to TDEC Environmental Assistance Center (EAC) protocols.

(3). Prohibition of illicit connections.

(a). The construction, use, maintenance or continued existence of illicit connections to the separate municipal storm sewer system is prohibited.

(b). This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

- (4). Reduction of storm water pollutants by the use of best management practices. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMP's necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.
- (5). Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into storm water, the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release.

In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the City of Gatlinburg Public Works Department in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the City of Gatlinburg Public Works Department within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall submit to the City of Gatlinburg Public Works Department within fourteen (14) days of knowledge of a release a written description of the release,

the circumstances leading to the release and the date of the discharge. The owner or operator shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

(6). Hot Spot Discharges.

The discharge of hazardous substances or oil into the municipal storm sewer system from hot spots including, but not limited to: garages, repair shops, junk yards, detailing shops, car wash waste water, restaurants (where grease traps are maintained), commercial properties with large paved parking areas, factories, retail facilities, manufacturing plants (such as concrete plants, asphalt plants, etc.), storage lots, maintenance areas, sanitary waste water, effluent from septic tanks, carpet cleaning waste water, laundry waste water/gray water and household toxics etc., shall be prohibited. This section also requires these and other businesses and facilities already in operation within the boundaries of the City of Gatlinburg must maintain proper storage and disposal practices of hazardous substances and oil.

(1). Site Map Requirements. Each application must be accompanied by a site map.

Before preparing a site map, the facility operator/ manager should do the following:

- (a) Conduct a materials inventory;
- (b) Evaluate any past spills or illicit discharges (if applicable);
- (c) Identify any non-storm water discharges and all outfalls or discharge points from the property;
- (d) Evaluate storm water runoff;
- (e) Summarize your findings.

(2). Each map should then be prepared considering and indicating any and all of the following specification:

- (a) Building design and layout including storm drain locations;
- (b) Storm water connections;
- (c) Name of receiving waters including whether it is high quality/ impaired waters;
- (d) Flow diversion structures (curb cuts, catch basins, etc.);
- (e) Vegetative swales;
- (f) Fueling areas;
- (g) Vehicle/ equipment maintenance and wash areas;
- (h) Loading/ unloading areas;
- (i) Above ground tanks for liquid storage;
- (j) Under ground detention inlets and outlets;
- (k) Waste management areas/ waste disposal areas, landfills;
- (l) Outside manufacturing areas;
- (m) Outside storage of raw materials, by-products, finished products;
- (n) Other areas of concern;
- (o) Storage areas of hazardous materials/ chemicals;
- (p) Location of emergency cleanup/ response kits;
- (q) Any other site specific pertinent details as required by the City.

Section 8. Stream-side Buffers and the Integrity of Existing Storm Water System

(1). Buffer Requirements (Construction and Post Construction).

- (a). Construction Buffers: Whenever a development or redevelopment site has a blue line stream, free-flowing waters of the State, or other body of water (perennial and intermittent streams, rivers, ponds, creeks, lakes and wetlands) on such site, flowing through such site, or bordering such site, a buffer of natural and/or man

made vegetation shall be maintained and/or installed which is at least thirty (30) feet in width, as measured from the top of the bank of such stream or body of water. The buffer of thirty (30) feet can be established on an average basis at a project, as long as the minimum width of the buffer is no less than fifteen (15) feet at any measured location. The buffer should be a vegetated, preferably native, water quality buffer to protect water bodies by providing structural integrity and canopy, as well as storm water infiltration, filtration and evapotranspiration. Buffer zones are not primary sediment control measures and should not be relied upon as such.

Every effort should be made of construction activities not to take place within the buffer and the buffer should remain in its undisturbed state of vegetation. BMPs providing equivalent protection to a receiving stream as a natural riparian buffer zone may be used at a construction site. Such BMPs shall be designed to be effective in protecting the receiving water from effects of storm water runoff as a natural riparian zone. A justification for use and a design of equivalent BMPs shall be included in the SWPPP. Such equivalent BMPs are expected to be routinely used at a construction project typically located adjacent to surface waters. These projects include, but are not limited to: sewer line construction, roadway construction, utility line or equipment installation, greenway construction, construction of a permanent outfall or a velocity dissipating structure, etc. Enhancements, restoration and re-establishment may be allowed with proper permit(s). Except as may be in conflict with the intent of this ordinance, provisions of the zoning ordinance, flood damage prevention

ordinance, or other ordinances and regulations of the city, buffer areas may be occupied by non-polluting uses and areas such as grassed or landscaped yards, park and picnic areas, greenways, walking trails, and/or undisturbed native vegetation. The City of Gatlinburg Public Works Department may allow driveway and road construction to occur through a buffer upon finding that the integrity of the buffer will not be compromised. Permits for stream crossings may also require permits from federal, state and other local agencies.

Water Quality Buffer (Post Construction): Buffer width depends on the size of the drainage area. Streams or other waters with drainage areas less than 1 square mile upstream will require buffer widths of 30 ft. of buffer zone. Streams or other waters with drainage areas greater than 1 square mile upstream will require buffer widths of 60 ft. minimum. In instances where a 60 ft. buffer width has been established for sites that contain or are adjacent to a receiving stream designated as impaired or exceptional waters, the 60 ft. buffer can be established on an average width basis at a project, as long as the minimum width of the buffer is more than 30 ft. at any measured location.

- (b). Buffer Variance. The City may allow a variance to the water quality buffer requirements. A variance may be obtained by application under Section 11 of this Ordinance. When a variance is allowed by the City, mitigation must be at least as protective of the natural resources and the environment as the undisturbed buffer. A determination that standards cannot be met may not be based solely on the difficulty or cost associated with implementation.
- (c). Integrity of Existing Storm Water System.

Any alteration to existing drainage channels, pipes or other storm water systems that convey public water is prohibited without authorization from the City. Any alteration must maintain the intended performance of the drainage channel.

(d). Existing Locations and Developments.

The City may, when conditions warrant, conduct inspections to verify that existing storm water management facilities are functioning within design limits. These inspections shall be based on violations and complaints which identify developments, businesses, or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the municipalities NPDES storm water permit. Inspections may include, but are not limited to; reviewing maintenance and repair records, sampling discharges, surface water, groundwater, and material or water in drainage control facilities, and evaluating the condition of drainage control facilities and other BMPs.

Section 9. Enforcement

- (1). Enforcement Authority. The City of Gatlinburg Public Works Department, through their inspectors or other agents shall have the authority to issue notices of violation and issue and enforce orders.

Enforcement procedures follow a standardized progression of events that are collectively known as a force continuum to be applied by the City of Gatlinburg Public Works inspector and all other authorized agents. Each enforcement action should be based on it's own merits/ consideration, thus any and all steps of this continuum may be bypassed based on the (1) discretion of the inspector, designated employee (s), (2) egregiousness of

violation, (3) amount of discharge, (4) damage to public and/ or private property, (5) number of previous violations, (6) any other pertinent circumstances, etc.

The establishment of this continuum shall include but not be limited to:

1. Site inspection;
 2. Verbal or written notice of inspection findings and corrective actions suggested;
 3. Follow up inspection;
 4. Notice of Violation or Compliance Order
 5. Cease and Desist Order or Stop work Order
 6. Civil Penalty
 7. Suspension or Revocation of Permit
- (2). Enforcement Procedures.
- (a). Notice of Violation/ Compliance Order -Whenever the inspector determines any permittee or any other person or entity discharging storm water has violated or is violating this ordinance or a permit or order hereunder, the inspector or other agents may serve upon such person written notice of the violation. The Notice of Violation should detail the overall site condition along with specific details of each violation (e.g. silt fence failure, check dam needing maintenance, failure of other BMPs, etc.). This Notice of Violation shall contain such requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices. The Notice may also direct that, following a specific time period, adequate structures, devices, be installed or procedures implemented and properly operated. Within ten (10) days of this

notice, a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the City of Gatlinburg Public Works Department. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

- (b). Cease and Desist Orders/ Stop Work Order -When the City of Gatlinburg Public Works Department finds that any person has violated or continues to violate this ordinance or any permit or order issued hereunder, the City of Gatlinburg Public Works Department may issue an order to cease and desist all such violations and direct those persons in noncompliance to;
 - (1). Comply forthwith; or
 - (2). Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.
 - (3). Conflicting standards - Whenever there is a conflict between any standard contained in this Ordinance and the TDEC manuals adopted by the municipality under this Ordinance, the strictest standard shall prevail.
- (c). Referrals to TDEC for Enforcement. Where the City has used “progressive enforcement” to achieve compliance with this ordinance, and in the judgment of the Authority has not been successful, the Authority may refer the violation to TDEC for enforcement. For the purposes of this provision, “progressive enforcement” shall mean two (2) follow-up inspections and two (2) warning letters. In addition, enforcement referrals to TDEC must include, at a minimum,

the following:

- (i) Construction project or industrial facility location;
 - (ii) Name of the operator or owner;
 - (iii) Estimated construction project size or type of industrial activity (including SIC code, if known);
 - (iv) Records of communications with the owner or operator regarding the violation, including at least two follow-up inspections, two warning letters or notices of violation, and any response from the owner or operator.
- (d). Where there are outstanding or unpaid civil penalties, pending civil penalty appeals, and/or appeals in any governing body pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8, the permit holder nor his/ her representative(s) may receive any additional land disturbance permit until such time as all civil penalties have been paid in full and all matters have been adjudicated.

Section 10. Penalties.

In addition to the provisions set out in Section 9, the inspector shall have the following powers:

- (1). Penalties. To issue a citation upon finding that the person or permit holder has violated a provision of this Ordinance. The violator may be subject to a penalty of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5000.00) as provided by TCA 68-221-1106. Each day during which a provision of this Ordinance is violated shall constitute a separate violation when actual site visits and conditions are properly documented by the inspector or other agents. Appeals shall be made to the Municipal

Board of Appeals.

(2). Injunctions, ect. To institute injunction, mandamus, abatement and any other appropriate judicial actions or proceedings to prevent, enjoin or abate the violations of any provision of this Ordinance or the provisions of any permit, condition or limitation in the Chancery Court for Sevier County.

(3). Measuring civil penalties.

In assessing a civil penalty, the following may be considered;

- (a). The harm done to the public health or the environment;
- (b). Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
- (c). The economic benefit gained by the violator;
- (d). The amount of effort put forth by the violator to remedy this violation;
- (e). Any unusual or extraordinary enforcement costs incurred by the municipality;
- (f). The amount of penalty established by Ordinance for specific categories of violations; and;
- (g). Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(4). Recovery of damages and costs. In addition to the civil penalty in subsection (1) above, the municipality may recover;

- (a). All damages proximately caused by the violator to the municipality, which include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this ordinance, or any other actual damages caused by the violation.

(b). The costs of the municipality for maintenance of storm water facilities when the user of such facilities fails to maintain them as required by this ordinance.

(5). Other Remedies.

The municipality may bring legal action to enjoin the continuing violation of this ordinance, and the existence of any other remedy, at law or equity, shall be no defense to any such actions. The inspector may prosecute the alleged violator of this Ordinance criminally in General Session Court of Sevier County pursuant to TCA 5-1-123. Any appeal of criminal convictions shall be made through the Circuit Court of Sevier County.

(6). Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted.

Section 11. Appeals.

A suspension or revocation of a permit should be appealed to the agency having issued the permit. Pursuant to Tennessee Code Annotated 68-221-1106 (d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this ordinance may appeal said penalty or damage assessment to the Municipal Board of Appeals.

(1). Appeals shall be made to the Municipal Board of Appeals. Each appeal shall be made pursuant to and in compliance with the procedures established by the Ordinance adopted by the City of Gatlinburg City Commission establishing the Municipal Board of Appeals.

(2). Board's Authority to Grant Variances. The Board of Appeals is hereby authorized to consider and grant variances from the provisions of this ordinance where appropriate. When considering requests for variances, the applicant must demonstrate to the satisfaction of the Board that the granting of a variance will not lead to any of the

following conditions:

- (a) Deterioration of existing culverts, bridges, dams and other structures;
- (b) Degradation of biological functions or habitat;
- (c) Accelerated stream bank or streambed erosion or siltation;
- (d) Increased threat of flood damage to public health, life and property;

Any variances granted by the Board, shall be reflected on/in the final plan and/or design documents.