

HAMBLLEN COUNTY, TENNESSEE
BOARD OF COUNTY COMMISSIONERS
DATE 08-18-2005

**RESOLUTION ADOPTING REGULATIONS TO REDUCE POLLUTION BY
ESTABLISHING ILLICIT DISCHARGE AND ILLEGAL CONNECTION CONTROL MEASURES**

WHEREAS, uncontrolled storm water drainage and discharge have a significant, adverse impact on the health, safety, and general welfare of the residents of Hamblen County and an adverse impact on the natural environment by carrying pollutants into the receiving waters within the community; and

WHEREAS, Hamblen County is required by federal law, particularly 33 U.S.C 1342 (p) and 40 CFR 122.26, to obtain a National Pollutant Discharge Elimination System (NPDES) permit through the Tennessee Department of Environment and Conservation (TDEC) to reduce storm water flows and associated pollutants discharged into waterways through Hamblen County's storm water system and drainage ways; and

WHEREAS, the NPDES permit requires Hamblen County to impose controls on future and existing development necessary to reduce the discharge of pollutants in storm water to the maximum reasonable extent using management practices, control techniques and system design and engineering methods, and such other provisions which are determined to be appropriate for the control of such pollutants; now therefore

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF HAMBLLEN COUNTY, TENNESSEE THAT:

The Illicit Discharge Resolution shall read as follows:

Section I. Purpose/Intent

The purpose of this resolution is to provide for the health, safety, and general welfare of the citizens of Hamblen County through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This resolution establishes methods of controlling the introduction of pollutants into municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this resolution are:

1. To regulate the contribution of pollutants to the county's MS4 by storm water discharges by any user.
2. To prohibit Illicit Connections and Discharges to the county's MS4.
3. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this resolution.

Section II. Definitions

For the purposes of this resolution, the following shall mean:

Authorized Enforcement Agency-Employees or designees of the director of Planning of the Hamblen County Planning Commission designated to enforce this resolution.

Best Management Practices (BMPs)-Schedules of activities, prohibitions of practices, general good house-keeping practices, pollution preventions and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act-The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction Activity-Activities subject to NPDES Construction Permits. After March 2003, NPDES Storm Water Phase II permits are required for construction projects resulting in land disturbance of 1 acre or more. Projects or developments of less than one (1) acre of land disturbance are required to obtain authorization if the construction activities at the site are part of a larger common plan of development or sale that is at least one (1) acre in size. Projects or developments of less than one (1) acre of total land disturbance may also be required to obtain authorization under certain conditions. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

Hazardous Materials-Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause or significantly contribute to , a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal Discharge-Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in other Sections of this resolution.

Illicit Connections-An illicit connection is defined as either of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the

storm drain system including but not limited to any conveyances which allow any non-storm water discharges including sewage, process wastewater and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or, any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial Activity-Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b) (14).

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit- Is defined as a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC§ 1342(b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area wide basis.

Non-Storm Water Discharge-Any discharge to the storm drain system that is not composed entirely of storm water.

Person-Is defined as any individual, association, organization, partnership, firm, corporation, municipality, or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant- Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatable; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises-Is defined as any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Storm Drainage System-Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, county streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Storm Water-Is any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Storm Water Pollution Prevention Plan-A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Storm Water, Storm Water Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

Wastewater-Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

Section III. Applicability

This Resolution shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

Section IV. Responsibility for Administration

The Hamblen County Planning Commission and its Director of Planning shall administer, implement, and enforce the provisions of this resolution. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Director of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency.

Section V. Severability

The provisions of this resolution are hereby declared to be servable. If any provision, clause, sentence, or paragraph of this resolution or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this resolution.

Section VI. Ultimate Responsibility

The standard set forth herein and promulgated pursuant to this resolution are minimum standards; therefore this resolution does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor authorized discharge of pollutants.

Section VII. Discharge Prohibitions

Prohibition of Illegal Discharges

No person shall discharge or cause to be discharged into the county storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

1. The following discharges are exempt from discharge prohibitions established by this resolution: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering system), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet land flows, swimming pools (if dechlorinated-typically less than one PPM chlorine), firefighting activities, and any other water source not containing Pollutants.
2. Discharges specified in writing by the authorized enforcement agency as being necessary to protect health and safety.
3. Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.
4. The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

Prohibition of Illicit Connections

1. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
2. This prohibition expressly includes, without limitations, 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.
3. A person is considered to be in violation of this resolution if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

Section VIII. Suspension of MS4 Access

Suspension Due to Illicit Discharges in Emergency Situations

The Hamblen County Planning Commission and its Director of Planning may, without prior notice, suspend MS4 discharges access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

Suspension due to the Detection of Illicit Discharge

Any person discharging to the MS4 in violation of this resolution may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Hamblen County Planning Commission will notify a violator of the proposed termination of its MS4 access. The violator may petition the Hamblen County Planning Commission for a reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the authorized enforcement agency.

Section IX. Industrial or Construction Activity Discharges

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Hamblen County Planning Commission and its Director of Planning prior to the allowing of discharges to the MS4.

Section X. Monitoring of Discharges

A. Applicability

This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

B. Access to Facilities

1. The Hamblen County Planning Commission and its Director of Planning shall be permitted to enter and inspect facilities subject to regulation under this resolution as often as may be necessary to determine compliance with this resolution. If a discharger has security measures in force, which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.
2. Facility operators shall allow the Hamblen County Planning Commission and its Director ready access to all parts of the premises for the purpose of inspection,

sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

3. The Hamblen County Planning Commission and its Director shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's storm water discharge.
4. The Hamblen County Planning Commission and its Director has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.
5. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Hamblen County Planning Commission and its Director and shall not be replaced. The costs of clearing such access shall be borne by the operator.
6. Unreasonable delays in allowing the Hamblen County Planning Commission and its Director access to a permitted facility is a violation of a storm water discharge permit and of this resolution. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this resolution.
7. If the Hamblen County Planning Commission and its Director have been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this resolution, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this resolution or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

Section XI. Requirements to Prevent, Control and Reduce Storm Water Pollutants by the use of Best Management Practices

Hamblen County Planning Commission and its Director will adopt requirements identifying Best Management Practices for any activity, operation, or facility, which may cause or contribute to pollution or contaminations of storm water, the storm drain system, or waters of the U.S. The owner or operator of commercial or industrial establishments shall provide, at their own

expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the County's MS4. 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. These BMPs shall be part of a storm water pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

Section XII. Watercourse Protection

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

Section XIII. Notifications 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 or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. said 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 said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next day. Notification in person or by phone shall be confirmed by written notice addressed and mailed to the Hamblen County Planning Commission and its Director within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Section XIV. Enforcement

Notice of Violation-Whenever the Hamblen County Planning Commission and its Director finds that a person has violated a prohibition or failed to meet a requirement of this resolution, the

authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

1. The performance of monitoring, analysis, and reporting;
2. The elimination of illicit connection or discharges;
3. That violating discharges, practices, or operations shall cease and desist;
4. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
5. Payment of a civil penalty to cover administrative and remediation costs; and
6. The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration or affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be complete. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

The Hamblen County Planning Commission and the Hamblen County Director of Planning are authorized and empowered to enforce the requirements of this resolution in accordance with the procedures set out in Tennessee Code Annotated 68-221-1106 or T.C.A 5-1-121, the terms of which are incorporated herein by reference. Any person who violates the provisions of any resolution regulating storm water discharges or facilities shall be subject to a civil penalty of not less than fifty dollars (\$50.00) or more than five thousand dollars (\$5,000) per day for each day of violations. Each day of violation may constitute a separate violation.

Section XV. Appeals of Civil Penalty

Any person receiving an Assessment may appeal the determination to the Hamblen County Planning Commission. The notice of appeal must be received within 30 days from the date of the assessment. Hearing on the appeal before the Hamblen County Planning Commission or its designee shall take place within 30 days from the date of receipt of the notice of appeal. The decision of the Hamblen County Planning Commission or their designee shall be final.

Section XVI. Remedies not Exclusive

The remedies listed in this resolution are not exclusive of any other remedies available under applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

Section XVII. Conflict with Other Regulations

Where the standard and management requirements of this resolution are in conflict with other laws, regulations, and policies regarding streams, steep slopes, erodible soils, wetlands, floodplains, timber harvesting, land disturbance activities, or other environmental protective measures, the more restrict shall apply.

Section XVIII. Separability

The provisions and sections of this resolution shall be deemed to be separable, and the invalidity of any portion of this resolution shall not affect the validity of the remainder.

Section XIX. Adoption of Resolution

This resolution shall be in full force and effect 30 days after its final passage and adoption by the Hamblen County Board of Commissioners. All prior resolutions and parts of resolutions in conflict with this resolution are hereby repealed.

Attest:

Linda Wilder
County Clerk

Approved 8/19/05
David W. Hunter
County Mayor