RESOLUTION BY
HAMBLEN COUNTY, TENNESSEE
BOARD OF COUNTY COMMISSIONERS
TO ADOPT WATER QUALITY BUFFER ZONE REGULATIONS

Resolution adopting regulations to establish a Water Quality Buffer Zone with provisions for the environmental protection and natural resource management of areas located along local streams both during construction activities and permanently for new development and redevelopment projects.

Whereas, uncontrolled storm water drainage and discharges flowing into waters through the natural riparian, vegetated areas bordering a stream system can have a significant, adverse impact on the surrounding environment and waterways by carrying pollutants into the receiving waters within the community; and

Whereas, Hamblen County is required by federal law, particularly 33 USC 1342 (p) and 40 CFR 122.26, to obtain a National Pollution Discharge Elimination System (NPDES) permit through the Tennessee Department of Environment and Conservation (TDEC) to manage 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 development necessary to reduce the discharge of pollutants in storm water to the maximum extent practicable 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 Hamblen County Board of Commissioners meeting in regular session on this 24th day of March 2011 hereby adopts this Resolution to establish a Water Quality Buffer Zone along local streams to ensure that proper controls are put in place to prevent or minimize water quality impacts be read as follows:

Water Quality Buffer Zone Regulations

Section I. Background

A.) Water quality buffer zones are those vegetated, preferably native, areas of land located adjacent to open water bodies, stream systems, floodplains, sinkholes, and wetlands. These zones provide numerous environmental protection and resource management benefits can include the following:

1. Restoring and maintaining the chemical, physical, and biological integrity of the water resources;
2. Removing pollutants delivered from urban storm water;
3. Reducing erosion and sediment entering the waters;
4. Stabilizing stream banks by providing vegetative structural integrity;
5. Providing infiltration, filtration and evapotranspiration of storm water runoff;
6. Maintaining base flow of streams;
7. Contributing the organic matter that is a source of food and energy for the aquatic ecosystem;
8. Providing tree canopy cover to shade streams and promote desirable aquatic organisms;
9. Providing riparian wildlife habitat; and
10. Furnishing scenic value and recreational opportunity.

B) It is the desire of the Hamblen County Board of Commissioners to protect and maintain the native vegetation in riparian areas by implementing specifications for the establishments, protection, and maintenance of a permanent water quality buffer zone along all waters of the state including open water bodies, stream systems, floodplains, sinkholes, and/or wetland areas at new development and redevelopment projects within our jurisdictional authority.

Section II. Intent

A) The purpose of this Resolution is to establish minimal acceptable requirements for the design of buffers to protect the waters, streams, wetlands, and floodplains of Hamblen County; to protect the water quality of watercourses, reservoirs, lakes, and other significant water sources within Hamblen County: to protect Hamblen County's riparian and aquatic ecosystems; and to provide for the environmentally sound use of Hamblen County's land resources.

Section III. Definitions

Active Channel The area of the stream channel that is subject to frequent flows and includes the portion of the channel below the floodplain.

Best Management Practices (BMPs) Conservation practices or management measures that control soil loss and reduce water quality degradation caused by nutrients, animal wastes, toxics, sediment, and runoff. Examples include: schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMP's also include treatment requirements, operating procedures, and practices to control runoff, spillage, leaks, sludge or other waste disposal, or drainage from raw material storage.

Buffer Zone An undisturbed vegetated area, including trees, shrubs, and herbaceous vegetation; enhances or restored vegetation; or the re-established of native vegetation bordering streams, ponds, wetlands, springs, rivers, lakes, reservoirs, or other water quality sensitive area which exist or is established to protect those water bodies. Alteration of this natural area is strictly limited.

Control Measures Refers to any BMP or other method used to prevent or reduce the discharge of pollutions to waters of the state.

Development 1) The improvement of property for any purpose involving building.
2) Subdivision or the division of a tract or parcel of land into two or more parcels.
3) The combination of any two or more lots, tracts, or parcels of property for any purpose.
4) The preparation of land for any of the above purposes.

Exceptional Waters Surface waters of the state that satisfy characteristics set forth in state rules and regulations. These characteristics include but are not limited to, waters within state or national parks, scenic rivers, waters with naturally reproducing trout, waters with exceptional biological diversity, or waters with outstanding ecological or recreational value.

Impaired Waters Any segment of surface water that has been identified as failing to support its classified uses. The state periodically compiles a list of such waters known as the 303(d) List.

Nonpoint Source Pollution — Pollution that is generated by various land use activities rather than from an identifiable or discrete source and is conveyed to waterways through natural processes, such as rainfall, snow melt, storm water runoff, or groundwater seepage rather than direct discharges. Examples are sheet flow from pastures and runoff from pavement.

100 Year Floodplain — The area of land adjacent to a stream or sinkhole that is subject to inundation during a storm event that has a recurrence interval of 100 years.

Pollution — Any contamination or alteration of the physical, chemical or biological properties of waters that will render the waters harmful or detrimental to:
1) Public health, safety, or welfare;
2) Domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses;
3) Livestock, wild animals, or birds;
4) Fish or other aquatic life.

Redevelopment — The alteration of developed land that disturbs one acre or more, or less than an acre if part of a larger common plan of development, and increases the site or building impervious footprint, or offers a new opportunity for storm water controls. The term is not intended to include such activities as exterior remodeling, which is not expected to cause adverse storm water quality impacts.

Stream Channel — Part of a watercourse either naturally or artificially created that contains an intermittent or perennial base flow of groundwater origin. Base flows of groundwater origin can be distinguished by any of the following physical indicators:

1) Hydrophytic vegetation, hydric soil, or other hydrologic indicators in the area(s) where groundwater enters the stream channel in the vicinity of the stream headwaters, channel bed, or channel banks;
2) Flowing water not directly related to a storm event;
3) Historical records of a local high groundwater table, such as well and stream gauge records.

Stream Order — A classification system for streams based on stream hierarchy. The smaller the stream, the lower its numerical classification will be. For example, a first order stream does not have tributaries and normally originates from springs and/or seeps.

Stream System Includes open water bodies, stream channels, sinkholes, and wetlands with one or more of the following characteristics:

1) 100-year floodplain;
2) Hydrologically related features;
3) Perennial or intermittent flow;
4) Waters of the State as defined in the Tennessee Water Quality Control Act.

Streams Is surface waters that are not defined as a wet weather conveyance. Typically streams have perennial or intermittent flows. These watercourses may be identified through site inspection and are shown on United States Geological Survey (USGS) maps. Perennial streams are those depicted on a USGS map with a solid blue line. Intermittent streams are those depicted on a USGS map with a dotted blue line.

Waters of the State Any waters, public or private, on or beneath the surface of the ground which are contained within, flow through or border unto 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 to effect a junction with natural surface or ground waters.

Water Pollution Hazard A land use or activity that causes a relatively high risk of potential water pollution.

Wetlands Those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Wet Weather Conveyance Manmade or natural watercourses, including natural watercourses that has been modified by channelization:

1) That flows only in direct response to precipitation runoff in the immediate area;
2) Whose channels are at all times above the groundwater table;
3) That are not suitable for drinking water supplies; and
4) In which hydrological and biological analyses indicated that, under normal weather conditions, due to naturally occurring ephemeral or low flow there is not sufficient water to support fish, or multiple populations of obligate logic aquatic organisms whose life cycle includes an aquatic phase of at least two months.

Section IV. Application

A) This Resolution shall apply to all proposed development projects (both new development and redevelopment) except for those projects as listed below, under subsection B-E, or those which meet waiver, variance or exemption criteria as outlined in Section IX of this regulation.
B) This Resolution shall not apply to timber harvesting activities which are implementing a forest management plan that is deemed to be in compliance with the regulations of the State of Tennessee and has received approval from the appropriate State Forestry Agency.
C) This Resolution shall not apply to mining operations that are operating in compliance with an approved state or federal agency's surface mining permit.
D) The Resolution shall not apply to normal agricultural operations. However, such operations as confined to animal feedlot operations (CAFOs) shall be covered under a state permitting program consistent with an approved Natural Resources Conservation Service (NCRS) conservation plan including the application of BMPs.
E) This Resolution shall not apply to portions of development sites that are otherwise regulated by state or federal authorities, but may be used in conjunction with them, such as but not limited to, Aquatic Resource Alternation Permits (ARAP), Injection Well Permits, or dredge and fill operations conducted under Section 4041 permits.
F) Except as provided above, and in Section IX, this Resolution shall apply to all development projects and parcels of land, structures, and activities that are causing, are likely to cause, or are contributing to:
    1) Pollution, including nonpoint source pollution, of the waters of the state;
    2) Erosion or sedimentation of stream channels;
    3) Degradation of aquatic or riparian habitat; and
    4) Discharges into Impaired or Exceptional Tennessee Waters.

Section V. Plan Requirements

A) In accordance with Section IV of this Resolution, a plan approved by the Hamblen County Planning Commission and its Director is required to be submitted for all development project that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common place of development or sale that would disturb one acre of more. A water quality buffer zone is required to be established to protect waters of the state located within or immediately adjacent to the boundaries of such projects.

B) The plan(s) shall set forth an informative, conceptual, and schematic representation of the proposed activity by means of maps, graphs, charts, or other written or drawn documents so as to enable the Commission an opportunity to make a reasonably

informed decision regarding the proposed activity to ensure that controls are put into place that will prevent or minimize water quality impacts.

C) The plan(s) shall address pollutants in storm water runoff from construction activities as well as permanent (post construction) storm water runoff management controls and, shall be prepared in accordance with good engineering practices by a Tennessee registered professional engineer or landscaping architect and shall contain the following information, when applicable (i.e. for all major subdivisions):
   1) A location or vicinity map;
   2) Field-delineated and surveyed streams, springs, seeps, sinks, bodies of water, and wetlands (showing a minimum of 200 feet into upstream and downstream properties);
   3) Field delineated and surveyed forested areas;
   4) Limits of the ultimate 100-year floodplain, if applicable;
   5) Hydric soils mapped in accordance with the NRCS soil survey of the site area;
   6) Steep slopes greater than 15 percent for areas adjacent to and within 200 feet of streams, wetlands, or other water bodies;
   7) A narrative of the species and distribution of existing vegetation within the buffer;
   8) A written request justifying an average width modification waiver that meets established criteria in Section IX of this Resolution, if applicable; and
   9) A copy of a USGS map with the site clearly outlined and centered on the page.

D) In lieu of the above, a simplified plan may be allowed to be submitted alone and/or shown as a component on a minor subdivision plat that is allowed to be prepared by a Tennessee registered surveyor. However, for all major subdivisions the plan must be prepared by an individual as identified above in subsection (C) and submitted in conjunction with other required construction plan(s) of the development. In either case, any forested areas, buffer maintenance and restrictions, signage, or other requirements shall be clearly delineated and noted on the final subdivision plat and/or construction plan(s) of the development. The goal of the water quality buffer is to preserve any undisturbed vegetation that is native to the streamside habitat in the area of the project.

E) Permanent boundary markers or any signage concerning the buffer zone, if required, shall be in the form and location approved by the Commission and shall be installed prior to final approval of the subdivision plat and/or other construction plans.

Section VI. Design Standards for Buffer Zones

A) The minimum buffer zone width shall consist of an undisturbed vegetative strip of land extending along both sides of a stream (if such stream is located within the development boundary or, if not, along the side boarding the development area) and its adjacent wetlands, floodplains, or slopes. This buffer width may also be adjusted to include contiguous sensitive areas, such as steep slopes or erodible soils, or where development or disturbance may adversely affect water quality, streams, wetlands, or other water bodies. The required buffer width depends on both the size of the drainage area and the stream status (impaired and exceptional waters or unimpaired) receiving the runoff. Buffer zones are not sediment control measures and should not be relied on as such.

1) Unimpaired streams, or other waters with drainage areas less than 1 square mile, require buffer widths of 30 feet minimum, both during construction and permanently (post-construction).
2) Impaired streams, exceptional waters, or streams with drainage areas greater than 1 square mile, require buffer widths of 60 feet minimum, both during construction and permanently (post –construction).
3) During construction the natural riparian buffer zone adjacent to all streams at the construction site shall be required to be preserved to the maximum extent practicable. Every attempt should be made for construction activities, as well as development and redevelopment activities, not to take place within the buffer zone. If necessary rehabilitation and enhancement to the natural buffer zone area is allowed to make any needed repairs, or improvements, of its effectiveness of protection of the waters of the state.
4) The criterion for minimum buffer zone widths may be established on an average width basis, by waiver as described in Section IX(C), as long as the minimum adjusted width of the buffer is more than one-half the required minimum width at any measured location and the overall average width throughout the project equals the minimum width requirement.
5) Before the above waiver for an adjusted average buffer zone width may be granted the applicant must make a written request to the Commission justifying the circumstance under which the request is based, such as a site-specific hardship or condition.
6) A determination that the minimum water quality buffer zone width cannot be met may be based solely on the difficulty or cost of implementing the measure, but must include multiple criteria, such as the type of project, existing land use and physical conditions that preclude use of these practices.

B) The minimum water quality buffer zone width shall be established as a setback from the top edge of a water body's stream bank of the active channel and shall extend along both sides of the stream, if applicable, including any adjacent floodplain, wetland, or slope. This width may also be expanded to include contiguous sensitive areas such as erodible soils, and where the development or disturbance may adversely affect water quality, streams, wetlands, or other water bodies as indicated below.

C) The required minimum width for all water quality buffer zones (i.e., the base width shall be established and protected both during the construction phase and shall be properly maintained thereafter (post-construction) as well. The Commission may establish additional buffer zone requirements expanding the minimum buffer zone width depending on the following factors:

1) Stream order (third order or higher, 20 feet may be added to the base width)
2) Percent slop (dependent on actual slop, up to 50 feet)
3) 100-year floodplain (to encompass the entire area plus 25 feet, if needed)
4) Wetlands or other critical areas (to consist of the entire area plus 25 feet)

D) Water Pollution Hazards-In addition to the above, the following land uses and/or activities are designated as potential water pollution hazards and must be set back from any stream or water body by the distance indicated below:

1) Storage of hazardous substances-(150 feet)
2) Aboveground or underground petroleum storage facilities-(150 feet)
3) Drain fields from onsite subsurface sewage disposal systems-(100 feet)
4) Raised septic systems-(250 feet)
5) Solid waste landfills or junkyards-(300 feet)
6) Confined animal feedlot operations-(250 feet)
7) Subsurface discharges from a wastewater treatment plant-(100 feet)
8) Land application of bio-solids-(100 feet)
9) Other water pollution hazards, not listed above, shall be evaluated case-by-case whereby the setback distance shall be dependent on the major pollutant of concern and the use of the water.

E.) The overall established buffer zone width shall be composed of undisturbed natural vegetation, or enhanced or restored vegetation where needed, with the following vegetative targets and land uses being allowed.

1) Streamside Buffer Zone Vegetative Targets:

    a) Projects the physical and ecological integrity of the stream ecosystem.

b) Provides as specified distance between upland development and the streamside to protect water bodies by providing structural integrity and canopy cover.
c) Providing a means for runoff infiltration, filtration and evapotranspiration.
d) Prevents encroachment into the buffer zone from residential and commercial development.
e) Restricts septic systems, permanent structures, or impervious cover, with the exception of paths.
f) Encourages the planting of native vegetation to increase the total width of the buffer.

2. Buffer Zone Allowable Land Uses:

a) Flood control structures:
b) Utility right of ways;
c) Footpaths;
d) Road and driveways crossings, where permitted;
e) Biking and hiking paths;
f) Recreational uses;
g) Limited tree and vegetation clearing;
h) Storm water management facilities, with the approval of the Commission.

Section VII. <u>Buffer Management and Maintenance</u>

A) The established buffer zone, including and required expanded areas, shall be managed to enhance and maximum the unique value of these resources. Management includes specific limitations on alteration of the natural conditions of these resources. The following practices and activities are restricted within the buffer zone, except with approval of the Director.

1) Clearing cutting of existing vegetation.
2) Soil disturbance by grading, stripping, or other practices.
3) Filling or dumping of any materials.
4) Drainage by ditching, under drains, or other systems.
5) Use, storage, or application of pesticides, except for spot spraying of noxious weeds or non-native species consistent with product's recommendations.
6) Storage or operation of motorized vehicles, except for buffer maintenance activities or emergency use.

B) The following structures, practices, and activities are permitted in the buffer zone, with specific design or maintenance features, subject to the review and approval of the Commission.

1) Roads, driveways, bridges, paths, and utilities:
    a) When deemed necessary, the applicant must conduct an analysis to ensure that no other economically feasible alternative is available and all applicable permits must be obtained prior to the work commencing.
    b) The right-of-way should be the minimum width needed to allow for maintenance access and installation.
    c) The angle of the crossing shall be perpendicular to the stream to minimize clearing requirements.
    d) A minimum number of road and driveway crossings should be used within each subdivision, provided that no more than one road crossings is allowed for every 1,000 feet or buffer.

2. Storm Water management:
    a) When deemed necessary, the applicant must conduct an analysis to ensure that no other economically feasible alternative is available and to establish that the project either is necessary for flood control or significantly improves the water quality or habitat in the stream.
    b) In new developments, onsite and nonstructural alternatives will be preferred over larger facilities within the stream buffer.
    c) When constructing storm water management facilities (i.e., BMPs), the area cleared will be limited to the area required for construction and adequate maintenance access.
    d) Material dredged or otherwise removed from a BMP shall be stored outside the buffer zone and disposed of properly.

3. Stream restoration projects, facilities, and activities approved by the Commission.
4. Water quality monitoring and stream gauging are permitted within the buffer.
5. Individual trees within the buffer zone in danger of falling, causing damage to dwellings or other structures, or causing blockage of the stream may be removed.
6. Other timber cutting techniques approved by the appropriate forestry agency may be undertaken within the buffer, if necessary to preserve the forest from extensive pest infestation, disease infestation, or threat from fire.

C) All plats and plans prepared for recording and all right-of-way plans shall clearly:

1) Show and label the extent of any established buffer zones on the subject property and place a note on the plat as indicated below, or as may be required by the current county subdivision regulations.
2) At a minimum, all minor subdivision plats shall provide a note to reference any buffer zone restrictions stating: “There shall be no clearing, grading, construction or disturbance of vegetation within the buffer zone area except as permitted by the Hamblen County Planning Commission or its Director.”

3) In addition to the above, all major subdivision plats shall provide a note to reference any protective covenants governing the buffer zone area stating: "Any buffer zone area shown hereon is subject to a set of protective covenants that may be found in the land records of Hamblen County for this property at _____ and they establish buffer management and maintenance responsibilities, as well as restricting disturbances and uses in these areas."

D) All buffer zone areas shall be maintained, during construction by either the owner or operators on site, and permanently by the respective owner(s) of the property containing the buffer zone area. This provision may be implemented by notes on a minor subdivision plat, or as set forth through a declaration of protective covenant for major subdivision, in which case the covenant must be submitted for approval by the Commission. The approved covenant shall be recorded in the land records and shall run with the land and continue in perpetuity.

E) All lease agreements, for land containing a water quality buffer must contain a notation regarding the presence and location of the protective covenants for buffer zone areas and shall contain information on the management and maintenance requirements.

F) An offer of dedication of a water quality buffer zone area to the County shall not be interpreted to mean that this automatically conveys to the general public right of access to this area.

G) The responsible party as identified by either a note on a minor plat, or in the protective covenant's associated with a major plat, shall inspect the buffer zone under their control annually and immediately following severe storms for evidence of sediment deposition, erosion, or concentrated flow channels and any needed corrective actions shall be taken by the responsible party to ensure the integrity and functions of the buffer are maintained. The Commission and its Director or their designee shall also have the right to conduct site inspections of any buffer zone areas.

H) Buffer zone areas may be allowed to grow into their vegetative target state naturally, but methods to enhance the successional process such as active reforestation may be used when deemed necessary by the Commission to ensure the preservation and propagation of the buffer zone area. Buffer zone areas may also be enhanced through reforestation or other growth techniques as a form of mitigation for achieving buffer preservation requirements.

Section VIII. Enforcement Procedures

A) The Commission and its Director are authorized and empowered to enforce the requirements of this Resolution in accordance with the procedures of this section and as set out in Tennessee Code Annotated (TCA) 68-221-1106 or TCA 5-1-121, the terms of which are incorporated herein by reference. Any person who violates the provisions of this Resolution shall be subject to a civil penalty of not less than fifty dollars ($50.00) no more than five thousand dollars ($5,000.00) per day of violation. Such a person shall be guilty of a separate violation for each day during which the violation occurs or continues.

B) If, upon inspection or investigation, the Director or his/her designed is of the opinion that any person has violated any provision of this Resolution, he/she shall with reasonable promptness issue a correction notice to the responsible party. Each such notice shall be in writing and shall describe the nature of the violation, including a reference to the provision within the Resolution that has been violated. In addition, the notice shall set a reasonable time for the abatement and correction of the violation.

C) If it is determined that the violation or violations continue after the time fixed for abatement and correction has expired, the Director shall issue a citation by certified mail to the responsible party who is in violation. Each such notice shall be in writing and shall describe the nature of the violation, including a reference to the provision within this ordinance that has been violated and what penalty, if any, is proposed to be assessed. The party charged has 30 days within which to contest the citation or proposed assessment of penalty and to file a written request or a hearing with the Hamblen County Board of Zoning Appeals (BZA). At the conclusion of this hearing, the Director will issue a final order, subject to an appeal to the appropriate authority. If, within 30 days from the receipt of the citation issued by the Director, the person fails to contest the citation or proposed assessment of penalty, the citation or proposed assessment of penalty shall be deemed the final order of the Director.

D) Any person who violates any provision of this Resolution may be liable for any court cost or other expenses incurred as a result thereof by the Commission.

E) In addition to any other sanctions listed in this Resolution, a person who fails to comply with the provisions of this Resolution shall be liable to the Commission in a civil action for damages in an amount equal to twice the cost of restoring the buffer zone. Damages that are recovered in accordance with this action shall be used for the restoration of buffer systems or for the administration of programs for the protection and restoration of water quality, streams, wetlands, and floodplains.

Section IX. Waivers/Variances/Exemptions

A) This resolution shall apply to all proposed new development and redevelopment projects except for activities that were completed prior to the effective date of this Resolution or those projects that have been previously approved and are ongoing developments with valid building and storm water permits. Provided however, waivers/variances/exemptions of the provisions of this Resolution may be granted on a case-by-case basis as described below.

B) The Commission may grant a variance for the following:

1) Those projects or activities for which it can be demonstrated that strict compliance with the Resolution would result in a practical difficulty or hardship.
2) Those projects or activities serving a public need where no feasible alternative is available.
3) The repair and maintenance of public improvements where avoidance and minimization of adverse impacts to wetlands and associated aquatic ecosystems have been addressed.
4) Those developments which have had buffers applied in conformance with previously issued requirements.

C) Waivers for development projects may be granted, by the Commission, provided:

1) The buffer width may be reduced at some points as long as the average width of the buffer meets the minimum requirements. This averaging of the buffer may be used to allow for the presence of an existing structure or to recover a lost lot, as long as the streamside zone is not disturbed by the reduction and no new structures are built within the 100-year floodplain.
2) When the buffer zone width is reduced BMPs providing equivalent protection to a receiving stream as a natural riparian zone must be used at the construction site. Such equivalent BMPs shall be designated to be as effective in protecting the receiving stream from effects of storm water runoff as a natural riparian zone. Justification for the use and design of equivalent BMPs shall be submitted to the Commission for approval prior to construction activities taking place at the site.
3) Buffer zone reduction waivers are generally only intended to be utilized during the construction phase. Therefore, such equivalent BMPS are expected to be used routinely at construction projects typically located adjacent to surface waters. These projects include, but are not limited to: sewer line construction, utility line or equipment installation, greenway construction, construction of a permanent outfall or a velocity dissipating structure, etc.

4) The Commission may offer credit for additional density elsewhere on the site for certain new developments and redevelopment projects such as planned unit development, in compensation for the loss of developable land due to the requirements of this Resolution. This compensation may increase the total number of dwelling units on the site up to the amount permitted under the base zoning.

D) The applicant shall submit a written request for a waiver/variance to the Director of the Commission. The application shall include specific reasons justifying the waiver/variance and any other information necessary to evaluate the proposed waiver/variance request.
The Commission may require an alternative analysis that clearly demonstrates that no other feasible alternative exist and that minimal impact will occur as a result of the project or development.

E) In granting a request for a waiver/variance, the Commission shall require that plans, site design, landscaping planting, fencing, signs, and any proposed water quality best management practices be prepared by a Tennessee registered professional engineer or landscaping architect to reduce any adverse impacts on water quality, streams, wetlands, and floodplains.

F) Certain buffer zone requirements contained in this Resolution may be eligible for an exemption based on existing uses. In such cases, portions of the buffer zone where certain land uses exist, and are to remain in place, are exempted according to the following:

1) A use shall be considered existing if it was present within the buffer zone as of the date of plan submission. Existing uses shall include, but are not limited to buildings, parking lots, roadways, utility lines and on-site sanitary sewage systems. Only portions of the buffer zone that contains the footprint of the existing use is exempt from buffer zone requirements. Activities necessary to maintain uses are allowed provided that no additional vegetation is removed from the buffer zone.
2) If an area with an existing use is proposed to be converted to another use or the impervious surfaces located within the buffer area are being removed, buffer zone requirements shall apply.

Section X. <u>Approvals</u>

A) Conflict with other Regulation-Where the standard and management requirements of this Buffer 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 restrictive shall apply.

B) Remedies Not Exclusive- The remedies listed in this Resolution are not exclusive of any other remedies under any applicable federal, state, or local laws and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

C) Separability-The provisions of this Resolution shall be separable, and the invalidity of any portion of this Resolution shall not affect the validity of the remainder.

D) Adoption of Resolution-This Resolution shall be in full force and effective upon 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.

WHEREFORE, it is moved by _____ and seconded by

_____ that this Resolution be adopted.

The Chair declared the Resolution adopted this 24th day of March 2011.

By: Stancil Ford
Chairman

Attest: Linda Wilder
County Clerk

Approved: Bill Brittain
County Mayor