

Footnotes:

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Cross reference— *Building, utility and housing codes: Title 12. Refuse disposal: Title 17.*

Cross reference— *Plumbing code: Title 12, chapter 2.*

Editor's note— *Ord. No. 2024-14, § 1 (Exh. A), adopted Sep. 10, 2024, repealed the former Title 18, §§ 18-101—18-515, and enacted a new Title 18 as set out herein. The former Title 18 pertained to similar subject matter and derived from Ord. 1975-19, July 1975; Ord. 2003-47, Oct. 2003; Ord. 2017-16, April 2017; Ord. 2017-42, Feb. 2018; Ord. 2020-19, July 2020; Ord. 2021-05, Feb. 2021; Ord. 2021-17, May 2021.*

18-101. - Definitions.

For the purpose of this chapter, the following terms, phrases, words, and their derivation, shall have the meanings given herein:

- (1) "Aldermen:" "Alderman," when used herein, shall mean the Board of Mayor and Aldermen of the City of Hendersonville, Sumner County, Tennessee.
- (2) "Certified mail:" "Certified mail" may be used instead of registered mail whenever this chapter requires a notice to be given by Registered Mail.
- (3) "City:" "City," when used herein shall mean the City of Hendersonville, Sumner County, Tennessee.
- (4) "City Building Inspector:" The "City Building Inspector" shall be and mean that person designated as such by the Chief of Operations, or the city building inspector's designated representative.
- (5) "Computation of time:" The time within which any act is to be done shall be computed by excluding the first and including the last day, unless the last day is a Saturday, a Sunday, or a legal holiday, and then it shall also be excluded.
- (6) "Gender:" Words importing the masculine gender shall include the feminine and neuter.
- (7) "Number:" Words used in the singular include the plural and the plural includes the singular number.
- (8) "Obstruction to the natural flow of water:" The term "obstruction to the natural flow of water," as used in this chapter, is hereby defined to mean and include any bridges, culverts, drainage structures, pipes, dams, spans, trestles, viaducts, causeways, artificial or man-made drains, or any other such or similar structure, and the depositing or dumping of any material, waste, refuse, garbage, or any other such or similar acts, that impede, impair, or hinder the natural flow of water so that injury or imminent danger, annoyance, hurt, harm, inconvenience, or damage to the general public or its property is likely to ensue, or the rights of the public generally or a considerable number of persons or inhabitants of this City are infringed, impaired, endangered, or placed in jeopardy, or threatened to be placed in jeopardy of harm, damage, or injury.
- (9) "Person:" "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and includes any trustee, receiver, assignee, or other similar representative thereof.
- (10) "Shall; may:" The word "shall" is mandatory. The word "may" is permissive.

(Ord. 2024-14, Sep. 10, 2024)

18-102. - Public nuisance declared.

Any obstruction to the natural flow of water is hereby declared and proclaimed to be a public nuisance.

(Ord. 2024-14, Sep. 10, 2024)

18-103. - Prohibition.

It shall be unlawful for any person to cause or to permit the construction, maintenance, or the existence of any obstruction to the natural flow of water within the area of this City or within this City's jurisdiction.

(Ord. 2024-14, Sep. 10, 2024)

18-104. - Abatement.

- (1) Whenever the City Building Inspector inspects or causes to be inspected any drains, streams, ditches, creeks, or any other bodies of water, or any places where water accumulates, or any structures, man-made or artificial, that affect the flow of any water by any means, directly or indirectly, when such structures are in, upon, near, or contiguous to the drains, streams, ditches, creeks, or any other bodies of water or any other places where water accumulates, and whenever the City Building Inspector shall find and be of the opinion that any bridge, dam, culvert, pipe, span, trestle, viaduct, causeway, artificial or man-made drain, or any such or similar structure, or the depositing or dumping of any material, waste, refuse, garbage, or any other such or similar acts, are in a state of nuisance and that any such conation, structure, or activity, as aforesaid, obstructs the natural flow of water, as herein defined, he shall notify or cause to be notified the person causing or permitting the construction, maintenance, or existence of said nuisance; and such person shall have such nuisance or the cause of such nuisance removed and abated within a reasonable time as prescribed in such written notice. Such notice shall be served by Registered Mail or Personal Service upon such person. Such notice may state that the obstruction has been declared to be a nuisance, and that such obstruction must be

removed, or remedied by repairing, altering, or demolishing the same; and that in any event, the condition must be abated within the time prescribed herein. Such notice may set forth facts to show that the condition complained of constitutes a nuisance of a public character and that it is an "obstruction to the natural flow of water," as herein defined. Such notice may be in the following form or substantially, the following form:

"NOTICE AND DEMAND FOR REMOVAL TO: _____
(name of person, as
_____ herein defined, causing, or responsible for such obstruction)
You will please take notice that the City of Hendersonville, Sumner
County, Tennessee, requires you to remedy or remove and to completely
abate the nuisance and obstruction arising from _____
(describe
_____ the condition complained of, the nuisance, and insert the
_____ facts as to the decision to proclaim such condition a nuisance)
at _____
(describe the place and location of the obstruction)

You are further advised that upon default or upon your failure to remove, abate, or remedy such nuisance or obstruction by repairing, altering, or demolishing it within days from the service of this notice, the city may proceed to abate and remove such nuisance and require you to pay all the expenses and costs incident thereto, or the city may pursue its other and various legal recourses, unless such time is extended by virtue of your taking an appeal to the aldermen from the findings and declarations of the city building inspector that such conditions, as aforesaid, constitute a nuisance, which appeal must be taken pursuant to Ordinance 1975-19, within seventy-two (72) hours from the service of this notice upon you. This notice is given without prejudice to any right of action for damages the city has already sustained or may sustain by reason of said nuisance and obstruction as aforesaid, and without prejudice to any other right or relief or action to which the city may be entitled; all such rights the city has in this matter are hereby reserved.

Dated at _____, this _____
day of _____, 1975

THE CITY OF HENDERSONVILLE

By:

Title

- (2) If such person or his agents shall neglect or refuse to comply with the terms of such notice and this chapter, the City Building Inspector, upon the expiration of the terms as set out in the said notice, is hereby empowered to remove such nuisance or the cause of such nuisance, utilizing either the services of some agency of this City or some private agency, at the expense of such person who is causing or responsible for said nuisance; such person's liability, if more than one (1), shall be joint and several. If the nuisance is abated by the City or its agents, public or private, the person causing or permitting the construction, maintenance, or existence of such nuisance shall be required to pay all of the reasonable expenses and costs of such abatement; such expenses and costs may be determined by the Board of Mayor and Aldermen.

In the event that such person should feel aggrieved by any decision of the City Building Inspector in this regard, such aggrieved party shall, within seventy-two (72) hours from the receipt of the written or personal notice and demand for the abatement of the nuisance, file at the offices of the City Building Inspector and the City Recorder, a request for a hearing by the Aldermen, which request shall be in written form and shall contain the contentions of the aggrieved party. The Aldermen shall hold a hearing to review the action of the City Building Inspector, and the Aldermen shall affix a time and place for such hearing and shall notify such aggrieved person who is requesting a hearing. The Aldermen, at such hearing or after such hearing, may affirm, amend, or set aside such action of the said City Building Inspector. No implementation of the order of the City Building Inspector for the abatement of the nuisance shall be effected, pending such hearing by the Aldermen.

None of the remedies for the abatement of nuisances as set out in this chapter shall be deemed to be exclusive, or as precluding the City from seeking injunctive relief in equity or from seeking any other relief.

Nothing contained in this chapter shall be construed to affect, suspend, or delay any cause or right of action or actions that any other citizen or third party may have against such person causing such nuisance, nor will any action taken by the City affect any duty of such persons causing the nuisance to other citizens or third parties. (Ord. #1975-19, July 1975)

(Ord. 2024-14, Sep. 10, 2024)

18-105. - Appeals to Board of Mayor and Aldermen.

The Aldermen shall hear and act upon such complaints filed by persons affected by decisions of the City Building Inspector, and may amend or set aside such decisions if contrary to the provisions of this chapter and the purpose and intent of this chapter. The concurring vote of a simple majority of those members present at such hearing shall be necessary to amend or set aside any order, requirement, decision, or determination of the City Building Inspector, provided, however, that a quorum of the Board of Mayor and Aldermen is present at such hearing. A quorum constitutes a majority of all the members of said Board of Mayor and Aldermen. Such an appeal shall only be perfected by the filing of an informal written request for a hearing before the Aldermen and setting forth in

such written request the contentions of the aggrieved party and explaining why the actions of the City Building Inspector should be set aside, modified, or vacated. Upon the perfecting of an appeal, the aggrieved party shall be granted a public hearing before the Aldermen, as prescribed above, and he may appear on his own behalf or be represented by counsel. The aggrieved person's side of the matter shall first be heard, and subsequently, the City Building Inspector and the City Attorney shall present their side, and both sides shall be permitted to introduce any relevant and competent evidence bearing on the issue. The notice of such hearing to which the aggrieved person shall be entitled shall be mailed to the said aggrieved person at least seven (7) days prior to the hearing date, unless in specific instances a shorter period of time is specified and agreed upon by the Aldermen and the aggrieved person. Such notice of hearing shall be sent by Registered Mail to the address that shall be given by the aggrieved person in his written request for a hearing. The following disposition of any such complaint shall be in the form of a resolution, which shall affirm, amend, or set aside the decision of the City Building Inspector. No request to grant a rehearing of such decision of the Aldermen shall be entertained unless new evidence is submitted that could not reasonably have been presented at the previous hearing. If justifiable grounds for a rehearing are alleged, they shall be made known, by a written communication to the Aldermen, of which a copy of the same shall be filed with the City Recorder; and if a motion to grant a rehearing shall receive the number of affirmative votes that is required to amend or set aside any decisions of the said City Building Inspector, as hereinabove prescribed, then a date for a rehearing shall be set. Such rehearing shall be conducted by the Aldermen in substantially the same manner as required for the former hearing.

(Ord. 2024-14, Sep. 10, 2024)

18-106. - Compliance required.

In lieu of enforcement of this chapter by way of prosecution, recovery of civil remedies, revocation of permits, condemnation, and other compulsory means, the City Building Inspector and the Aldermen, either one or both, may seek to obtain the voluntary compliance with this chapter by way of notice, warning, or other educational means. This section does not, however, require that such noncompulsory methods be used before proceeding by way of a compulsory enforcement.

(Ord. 2024-14, Sep. 10, 2024)

18-107. - Obstruction of city building inspector.

No person shall interfere with or obstruct the City Building Inspector or any of his designated representatives in carrying out any inspection, survey, or examination or the performance of any other duty for the office of the City Building Inspector.

(Ord. 2024-14, Sep. 10, 2024)

18-108. - Violation and penalty.

Any person violating any provision of this chapter or permitting or causing any obstruction to the natural flow of water, as herein defined, shall be fined not more than fifty dollars (\$50.00) for each offense for each offense; and a separate offense shall be considered committed upon each day during or on which a violation occurs or continues.

(Ord. 2024-14, Sep. 10, 2024)

CHAPTER 2. - STORMWATER MANAGEMENT

18-201. - General Provisions.

(1) *Purpose.* It is the purpose of this chapter to:

- a. Protect, maintain, and enhance the environment of the City of Hendersonville and the public health, safety, and the general welfare of the citizens of the City, by controlling discharges of pollutants to the City's stormwater system and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the City. This also includes regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by Federal and State Law and to establish long term, post-construction runoff management.
- b. Enable the City to comply with the National Pollution Discharge Elimination System (NPDES) permit and applicable regulations, 40 CFR 122.26 for stormwater discharges.
- c. Allow the City to exercise the powers granted in Tennessee Code Annotated § 68-221-1105, which provides that, among other powers municipalities have with respect to stormwater facilities, is the power by ordinance or resolution to:
 - i. Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the municipality, whether or not owned and operated by the municipality;
 - ii. Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;
 - iii. Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater pollutants as may be necessary to protect water quality;
 - iv.

Review and approve plans and plats for stormwater management in proposed subdivisions or commercial developments;

- v. Issue permits for stormwater discharges, or for the construction, alteration, extension, or repair of stormwater facilities;
- vi. Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;
- vii. Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated;
- viii. Expend funds to remediate or mitigate the detrimental effects of contaminated land or other source of stormwater contamination, whether public or private; and
- ix. In the case of conflicting ordinances, this chapter shall prevail.

(2) *Authority.*

- a. The City of Hendersonville shall have right-of-entry upon the property subject to this chapter and any permit or document issued hereunder. The City of Hendersonville shall be provided ready access to all parts of the premises for the purposes of inspection, monitoring, sampling, inventory, records examination and copying, and the performance of any other duties necessary to determine compliance with this chapter.
- b. Where a property, site, or facility has security measures in place that require proper identification and clearance before entry into its premises, the person shall make necessary arrangements with its security personnel so that, upon presentation of suitable identification, the City of Hendersonville will be permitted to enter without delay for the purposes of performing specific responsibilities.
- c. The City of Hendersonville shall have the right to operate and maintain on the person's property such devices as are necessary to conduct sampling and metering of the person's stormwater operations or discharges.
- d. No person shall interfere with or obstruct the Public Works Director or their designated representatives in carrying out any inspection, survey, or examination or the performance of any other duty for the office of the Public Works Department.
- e. Any temporary or permanent obstruction to safe and easy access to the areas to be inspected and/or monitored shall be removed promptly by the person at the written or verbal request of the City of Hendersonville. The costs of clearing such access shall be borne by the owner.
- f. The City of Hendersonville may reserve the right to determine and impose inspection schedules necessary to enforce the provisions of this chapter.

(3) *Duty to provide information.* The owner/operator shall furnish to the City of Hendersonville any information that is requested to determine compliance with this chapter.

(4) *Administering entity.* The Director of Public Works shall administer the provisions of this chapter.

(5) *City Stormwater Management Plan.* The City shall implement the requirements of this chapter using guidance from the City's Stormwater Management Plan.

(6) *Severability.* The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this chapter 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 chapter.

(7) *Ultimate Responsibility.* The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore, this chapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

18-202. - 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.

1. "Agriculture land management activities" means the practice of cultivating the soil, producing crops, and raising livestock for the preparation and marketing of the resulting products.
2. "As-built plans" means a set of engineering or site drawings and documents that delineate and describe the as-built condition of stormwater control measures and stormwater management facilities as actually constructed, including but not limited to elevation, size, type, slope, etc. These drawings and associated documents should be prepared by a registered professional engineer or registered landscape architect that is familiar with the city-approved plans for the property and may be based on as-built survey information prepared by a registered land surveyor.
3. "Authorized enforcement agency" means the Hendersonville Director of Public Works shall administer, and the City Engineer shall enforce the provisions of this chapter.
4. "Best management practices (BMPs)" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to Waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage, leaks, sludge or waste disposal, or drainage from raw material storage. BMPs include source control practices (non-structural BMPs) and engineered structures designed to treat runoff.
5. "Clean Water Act" means the Federal Water Pollution Control Act (33 U.S.C.' 1251 et seq.), and any subsequent amendments thereto.
6. "Clearing" means the removal of vegetation and disturbance of soil prior to grading or excavation in anticipation of construction activities. Clearing may also refer to wide area land disturbance in anticipation of non-construction activities. Clearing, grading, and excavation do not refer to clearing of vegetation along existing or new roadways, highways, dams or power lines for sight distance or other maintenance and/or safety concerns, or cold planning, milling, and/or

removal of concrete and/or bituminous asphalt roadway pavement surfaces. The clearing of land for agricultural purposes is exempt from federal stormwater NPDES permitting in accordance with Section 401(1)(1) of the 1987 Water Quality Act and state stormwater NPDES permitting in accordance with the Tennessee Water Quality Control Act of 1977 (T.C.A. 69-3-101 et seq.).

7. "The City" shall mean the City of Hendersonville.
8. "Common plan of development or sale" 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) or physical demarcation (including boundary signs, lot stakes, surveyor markings) 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.
9. "Construction Site Operator" or "Operator" means any person associated with a construction project that meets either of the following two (2) criteria:
 - a. This person has operational or design control over construction plans and specifications, including the ability to make modifications to those plans and specifications. This person is typically the owner or developer of the project or a portion of the project and is considered the primary permittee.
 - b. This person has day-to-day operational control of those activities at a project which are necessary to implement compliance with a SWPPP for the site or other permit conditions. This person is typically a contractor or a commercial builder who is hired by the primary permittee and is considered a secondary permittee.

It is anticipated that at different phases of a construction project, different types of parties may satisfy the definition of the "construction site operator."

10. "Design storm event" is the estimated design rainfall amounts, for any return period interval (i.e., 1-year, 2-year, 5-year, 25-year, etc.) in terms of either 24-hour depths, or intensities for any duration, as defined by Precipitation-Frequency Atlas of the United States, Atlas 14, Volume 2, Version 3.0 U.S. Department of Commerce National Oceanic and Atmospheric Administration (NOAA), National Weather Service, Hydrometeorological Design Studies Center, Silver Springs, Maryland or its digital product equivalent.
11. "Discharge" means dispose, deposit, spill, pour, inject, seep, dump, leak, or place by any means, with direct or indirect entry of any solid or liquid matter into the municipal separate storm sewer system.
12. "Disturbed area" means the total area presented as part of the development (and/or of a larger common plan of development) subject to being cleared, graded, or excavated during the life of the development. The area cannot be limited to only the portion of the total area that the site-wide owner/developer initially disturbs through the process of various land clearing activities or in the construction of roadways, sewers, drainfields and water utilities, stormwater drainage structures, etc., to make the property marketable.
13. "Division" means the Division of Water Resources of the State of Tennessee, Department of Environment and Conservation.
14. "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.
15. "Enforcement Response Plan (ERP)" is a set of procedures which present the permittee's potential responses to violations and address repeat violations through progressive enforcement as needed to achieve compliance. These enforcement responses should be commensurate with the nature of the violation and must include enforcement responses progressing up to the maximum civil and criminal penalties as described in T.C.A. 69-3-101.
16. "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.
17. "Erosion prevention and sediment control (EPSC) plan" means a written plan (including drawings or other graphic representations) that indicates the specific measures and sequencing to be used to control sediment runoff and minimize erosion on a development or redevelopment site during and after construction.
18. "Exceptional Tennessee Waters (ETW)" are surface waters designated by the division as having the characteristics set forth at Tennessee Rules, Chapter 0400-40-03-.06(4). Characteristics include waters within parks or refuges, scenic rivers, waters with threatened or endangered species, waters that provide specialized recreational opportunities, waters within areas designated as lands, waters with naturally reproducing trout, waters with exceptional biological diversity and other waters with outstanding ecological or recreational value.
19. "Forestry" is the cultivation and harvesting of timber for the production of forest products.
20. "Hazardous materials" is 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.
21. "Illicit connection" 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-stormwater discharge 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.
22. "Illicit discharge" means any discharge to the MS4 that is not composed entirely of stormwater and not specifically exempted under Section 18-208.2 of this chapter.
23. "Industrial activity" is any activity subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

24. "Inspection and Maintenance Agreement (IMA)" means a document recorded with the office of the register of deeds for Sumner County that acts as a property deed restriction, and which provides for long-term inspection and maintenance of stormwater control measures and stormwater management facilities.
25. "Inspector" is a person with one (1) of the following qualifications:
- A valid certification for the "Fundamentals of Erosion Prevention and Sediment Control Level I" course,
 - A registered professional engineer or registered landscape architect,
 - A Certified Professional in Erosion and Sediment Control (CPESC), or
 - A valid certification for the "Level II Design Principles for Erosion Prevention and Sediment Control for Construction Sites" course.

An inspector performs and documents the required inspections, paying particular attention to time-sensitive permit requirements such as stabilization and maintenance activities. An inspector may also have the following responsibilities:

- Oversee the requirements of other construction-related permits, such as an Aquatic Resources Alteration Permit (ARAP) or U.S. Army Corps of Engineers (USACE) permit for construction activities in or around Waters of the State or Waters of the U.S.
 - Update field SWPPPs.
 - Conduct pre-construction inspection to verify that undisturbed areas have been properly marked and initial measures have been installed.
 - Inform the permit holder of activities that may be necessary to gain or remain in compliance with the Tennessee Department of Environment and Conservation (TDEC) Construction General Permit (CGP) and other environmental permits.
26. "Land disturbing activity" means any activity on property that results 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, trench, and excavation.
27. "Land Disturbance Permit (LDP) audit" is a twice-monthly, site-wide inspection to be performed by LDP permittees required for sites disturbing more than fifty (50) acres at any one (1) time, to be completed by a registered professional engineer, registered landscape architect, and/or person with an active TDEC Level 2 certification.
28. "Linear project" is a land disturbing activity as conducted by an underground/overhead utility or highway department, including, but not limited to, any cable line or wire for the transmission of electrical energy; any conveyance pipeline for transportation of gaseous or liquid substance; any cable line or wire for 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 commercial subdivisions or high-rise structures is not considered a linear project.
29. "Long-Term Maintenance Plan (LTMP)" is a plan that specifies the schedule of inspections and maintenance activities necessary to ensure that stormwater control measures or facilities remain in proper working condition in accordance with approved design standards, rules, and regulations, and applicable laws that shall be included with the IMA and recorded with the office of the register of deeds for Sumner County.
30. "Maintenance" means any activity that is necessary to ensure that stormwater control measures, best management practices, or stormwater management facilities remain in proper working condition in accordance with approved design standards, rules, and regulations, and applicable laws. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed 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 or indirectly impair the functions of the stormwater facility.
31. "Municipal Separate Storm Sewer System (MS4)" is defined in 40 C.F.R. § 122.26(b)(8) to mean a conveyance or system of conveyances, e.g., roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains that are:
- Owned and operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the CWA that discharges to Waters of the United States;
 - Designed or used for collecting or conveying stormwater;
 - Not a combined sewer; and
 - Not part of a Publicly Owned Treatment Works (POTW) as defined in 40 C.F.R § 122.2.
32. "National Pollutant Discharge Elimination System permit" or "NPDES permit" is 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.
33. "Non-stormwater discharge" is any discharge to the storm drain system that is not composed entirely of stormwater.
34. "Peak flow" means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.
35. "Permanent stabilization" means that all soil disturbing activities at the site have been completed and one (1) of the three (3) following criteria is met.
- A perennial, preferably native, vegetative cover with a uniform (i.e., evenly distributed, without large bare areas) density of at least seventy percent (70%) has been established on all unpaved areas and areas not covered by permanent structures, and all slopes and channels have been permanently stabilized against erosion.

- b. Equivalent permanent stabilization measures such as the use of riprap; permanent geotextiles; hardened surface materials including concrete, asphalt, gabion baskets or reno mattresses have been employed.
 - c. For construction projects on land used for agricultural or silvicultural purposes, permanent stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural or silvicultural use.
36. "Person" 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.
 37. "Point source" or "Outfall" means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include introduction of pollutants from non-point source agricultural or silvicultural activities, including stormwater runoff from orchards, cultivated crops, pastures, range lands, forest lands or return flows from irrigated agriculture or agricultural stormwater runoff. In short, outfall is a point where runoff leaves the site as a concentrated flow in a discrete conveyance.
 38. "Pollutant" means 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, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sediment; 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.
 39. "Premises" means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
 40. "Priority areas" means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. Examples include, auto repair shops, auto supply shops, fleet storage areas, industrial sites, commercial nurseries, gas stations, car washes, large commercial parking areas, restaurants, and other land uses as determined by the Public Works Department.
 41. "Priority construction activity" means construction activities discharging directly into, or immediately upstream of, Waters of the State recognized as unavailable parameters for siltation or Exceptional Tennessee Waters.
 42. "Redevelopment" means the alteration of developed land.
 43. "Registered Engineer" and "Registered Landscape Architect" is an engineer or landscape architect certified and registered by the State Board of Architectural and Engineer Examiners pursuant to Section 62-202, Tennessee Code Annotated, to practice in Tennessee.
 44. "Runoff" means that portion of the precipitation on a drainage area that is discharged from the area into the MS4.
 45. "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 as a product of erosion.
 46. "Sediment basin" is a temporary basin consisting of an embankment constructed across a wet weather conveyance, an excavation that creates a basin or by a combination of both. A sediment basin typically consists of a forebay cell, dam, impoundment, permanent pool, primary spillway, secondary or emergency spillway and surface dewatering device. The size and shape of the basin depends on the location, size of the drainage area, incoming runoff volume and peak flow, soil type and particle size, land cover, and receiving stream classification (i.e., waters with unavailable parameters, Exceptional Tennessee Waters, or waters with available parameters).
 47. "Sedimentation" means the action or process of forming or depositing sediment.
 48. "Significant contributor" is defined as a source of pollutants where the volume, concentration, or mass of a pollutant in a stormwater discharge can cause or threaten to cause pollution, contamination, or nuisance that adversely impact human health or the environment and cause or contribute to a violation of any applicable water quality standards for receiving water.
 49. "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 geotechnical engineer or geologist.
 50. "Steep slope" is a natural or created slope of thirty-five percent (35%) grade or greater. Designers of sites with steep slopes must pay attention to stormwater management in the SWPPP to engineer runoff around or over a steep slope so as not to erode the slope. In addition, site managers should focus on erosion prevention on the slopes and stabilize the slopes as soon as practicable to prevent slope failure or sediment discharges from the project.
 51. "Stormwater" means stormwater runoff, snow melt runoff, surface runoff, infiltration, and drainage.
 52. "Stormwater Control Measure (SCM)" means permanent practices and measures designed to reduce the discharge of pollutants from new development projects or redevelopment projects.
 53. "Stormwater discharge-related activities" means activities that cause, contribute to, or result in point source stormwater pollutant discharges. These activities may include excavation, site development, grading and other surface disturbance activities; and activities to control stormwater including the siting, construction, and operation of best management practices.
 54. "Stormwater management facilities" means the drainage structures, conduits, ditches, combined sewers, and all appurtenances by means of which stormwater is collected, transported, pumped, treated, or disposed of.
 55. "Stormwater management program" refers to a comprehensive program to manage the quality of stormwater discharges from the MS4.
 56. "Stormwater Pollution Prevention Plan (SWPPP)" is a written site-specific plan required by the Construction General Permit that includes a narrative pollution prevention plan and graphical erosion and sediment control plan. In its basic form, the plan contains a site map, a description of construction activities that could introduce pollutants to stormwater runoff, a description of measures or practices to control these pollutants, and erosion and sediment control plans

and specifications. It must be prepared and submitted before construction begins. In order to effectively reduce erosion and sedimentation impacts, best management practices must be designed, installed, and maintained during land disturbing activities. The SWPPP should be prepared in accordance with the Tennessee Erosion and Sediment Control Handbook.

- 57. "Stormwater utility" means the Public Works Department that administers the stormwater management ordinance, and other stormwater rules and regulations adopted by the municipality.
- 58. "Stream" is a surface water that is not a wet weather conveyance. Includes lakes, wetlands, and other non-linear surface waters.
- 59. "Take" of an endangered species means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or attempt to engage in any such conduct.
- 60. "Temporary stabilization" is achieved when vegetation or non-erodible surface has been established on the area of disturbance and construction activity has temporarily ceased. Under certain conditions, temporary stabilization is required when construction activities temporarily cease. However, if future construction activity is planned, permit coverage continues.
- 61. "Total maximum daily load (TMDL)" means the sum of the individual wasteload allocations for point sources and load allocations for non-point sources and natural background (40 CFR 130.2(l)). TMDL is a study that quantifies the amount of a pollutant in a stream, identifies the sources of the pollutant and recommends regulatory or other actions that may need to be taken in order for the stream to cease being polluted. TMDLs can also be described by the following equation:

$$\text{TMDL} = \text{sum of non-point sources (LA)} + \text{sum of point sources (WLA)} + \text{margin of safety}$$

- 62. "Treatment train" means a technique for progressively selecting various stormwater control measures to address water quality, by which groups of practices may be used to achieve a treatment goal while optimizing effectiveness, maintenance needs, and space.
- 63. "Waste site" means an area where material from a construction site is disposed of. When the material is erodible, such as soil, the site must be treated as a construction site, fill site, or spoil material, and shall be permitted based on disturbance.
- 64. "Water quality riparian buffer" means a permanent strip of natural perennial vegetation adjacent to a stream, river, wetland, pond, or lake that contains dense vegetation made up of grass, shrubs, and/or trees. The purpose of a water quality riparian buffer is to maintain existing water quality by minimizing the risk of any potential sediments, nutrients, or other pollutants reaching adjacent surface waters and to further prevent negative water quality impact by providing canopy over adjacent waters.
- 65. "Waters of the State" or "Waters" means 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.
- 66. "Waters with unavailable parameters" means any segment of surface waters that has been identified by the Division as failing to support one (1) or more classified uses. Unavailable parameters exist where water quality is at, or fails to meet, the levels specified in water quality criteria in Rule 0400-40-03-.03, even if caused by natural conditions. In the case of a criterion that is a single response variable or is derived from measurement of multiple response variables, the unavailable parameters shall be the agents causing water quality to be at or failing to meet the levels specified in criteria. Resources to be used in making this determination include biennial compilations of impaired waters, databases of assessment information, updated GIS coverages, and the results of recent field surveys.
- 67. "Watershed" means all the land area that contributes runoff to a particular point.
- 68. "Wet weather conveyances" mean man-made or natural watercourses, including natural watercourses that have been modified by channelization, that meet the following:
 - a. The conveyance carries flow only in direct response to precipitation runoff in its immediate locality.
 - b. The conveyance's channels are at all times above the ground water table.
 - c. The flow carried by the conveyance is not suitable for drinking water supplies.
 - d. Hydrological and biological analyses indicate that, due to naturally occurring ephemeral or low flow under normal weather conditions, there is not sufficient water to support fish or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two (2) months. (Tennessee Rules, Chapter 0400-40-3-.04(3).)

(Ord. 2024-14, Sep. 10, 2024)

18-203. - Land Disturbance and Permanent Stormwater Standards.

- 1. *General.* New development and redevelopment projects must be designed in accordance with the following table:

Table 18-1. New Development and Redevelopment Requirements

	Land Disturbance Permit Required	EPSC Plans Required	Water Quality Riparian Buffer Required	Water Quality Design Required
Any land use* (excluding commercial/industrial), less than one (1) acre of disturbance, not part of common plan of development or sale.		X	X	

Commercial/industrial, less than one (1) acre of disturbance, not part of common plan of development or sale.	X	X	X	
Any land use, one (1) acre or greater of disturbance or part of a larger common plan of development or sale.	X	X	X	X

;adv=6;*Other requirements at discretion of City Engineer/Public Works Director.

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 chapter.
3. *Exemptions.* The following activities are considered to be exempt from the requirements of a land disturbance permit:
 - a. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources;
 - b. Surface mining as is defined by Tennessee Code Annotated, § 59-8-202; and
 - c. Any forestry or agricultural activities that are consistent with the definitions in Section 18-202.
These activities may be undertaken without a land disturbance permit; however, the person conducting these excluded activities shall remain responsible for conducting these activities within accordance with provisions of this chapter and other applicable regulations including responsibility for controlling sediment, illicit discharges, and runoff.
4. *Land disturbance permit fees.* The land disturbance permit fees shall be as set forth in the municipal fee schedule.
5. *Land disturbance permit qualifications.* Land disturbance permit calculations and associated Erosion Prevention and Sediment Control (EPSC) plans must be prepared by a registered engineer or registered landscape architect with an active TDEC Level 2 certification.
 - a. If a registered engineer or registered landscape architect submits plans for review without an active TDEC Level 2 certification, they do so with the understanding that upon the third submittal of the project EPSC plans they shall be responsible for the consultant invoice total based upon the consultant hourly rate at that time to complete the EPSC review, and any subsequent project reviews.
 - b. This requirement shall be effective six (6) months after the adoption of this chapter.
6. *Permit duration.* Every land disturbance permit shall expire and become null and void when one of the following has occurred:
 - a. Six (6) months of no activity on the site has occurred;
 - b. Permanent stabilization of the site per the approved plans has occurred;
 - c. Issuance of a TDEC Notice of Termination (NOT). A copy must be provided to the City in order to close out land disturbance permits; or
 - d. Three (3) years from the issuance of the permit or if new federal or state regulations exist changing the scope of coverage where a new land disturbance permit is required.
7. *Land disturbance permit special procedures.*
 - a. Fourteen (14) days prior to removal or conversion of sediment basins and/or sediment traps (if present) the City must be contacted for a site inspection and approval by the City Engineer, Public Works Director, or their designee.
 - b. The City shall be notified within thirty (30) days of any change in responsible party (i.e., owner, developer, contractor, etc.) for the land disturbance permit. The new responsible party must comply with the existing City-approved site-wide SWPPP and EPSC Plans.
8. *Surety.* The City may, at its discretion, require the submittal of surety in the form of a letter of credit or cashier's check prior to the issuance of a permit to ensure that the stormwater management facilities and/or Stormwater Control Measures (SCMs) are installed by the permit holder as required by the approved stormwater management plan. The amount of the surety shall be the total estimated construction cost determined by the City Engineer, or their designee, for the installation of BMPs, stormwater management facilities, and/or SCMs approved under the permit plus any reasonably foreseeable additional related costs, e.g., for damages or enforcement. The surety shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan. The surety shall be released in full with the submittal and approval of an as-built plan stamped by a registered professional engineer or registered landscape architect. Provisions for a partial pro-rata release of the surety based on the completion of various development stages can be made at the discretion of the City Engineer, or their designee.
9. *Review and approval of application.*
 - a. The City will review each application and determine its conformance with the provisions of this chapter. Within thirty (30) days after receiving an application, the City shall provide one (1) of the following responses in writing:
 - i. Approval of the permit application;
 - ii. Approval of the permit application, subject to such reasonable conditions as may be necessary to secure substantially the objective of this chapter, and issue the permit subject to these conditions; or
 - iii. Denial of the permit application, indicating the reason(s) for the denial.
 - b. If the City has granted conditional approval of the permit, the applicant shall submit a revised plan that conforms to the conditions established by the City. However, the applicant shall be allowed to proceed with his land disturbing activity so long as it conforms to conditions established by the City.

10. *Erosion Prevention and Sediment Control Plan (EPSC) requirements.* The EPSC Plans in support of a Land Disturbance Permit 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. A registered professional engineer or registered landscape architect licensed in the State of Tennessee shall seal the plan. The plan shall also conform to the requirements found in the Tennessee Erosion and Sediment Control Handbook, 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 of the basin and site with contour intervals of two (2) feet or less showing present conditions and proposed grading resulting from land disturbing activity;
 - c. All existing receiving Waters of the State, and if they are classified as waters with unavailable parameters for siltation/sedimentation or habitat alteration and/or ETWs. Include any FEMA effective floodways and/or floodplains;
 - d. A general description of existing land cover. Individual trees and shrubs do not need to be identified unless requested;
 - 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 diameter of the area involved must also be identified on the plan and shown to scale. Complete landscape plans may be submitted separately. The plan must include the sequence of implementation for tree protection measures;
 - f. Approximate limits of proposed land disturbing activities including clearing, grading, utility connections, and/or filling;
 - g. A general description of existing soil types and characteristics;
 - h. Proposed drainage network;
 - i. Approximate flows leaving site after construction and incorporating stormwater detention measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems;
 - j. The projected sequence of work represented by the grading, drainage and EPSC plans as related to other major items of construction, beginning with the installation of EPSC measures, and including the construction of any sediment basins, sediment traps, stormwater management facilities, and SCMs;
 - k. Plans shall include detailed drawings of all control measures used; stabilization measures including vegetation and non-vegetation measures, both temporary and permanent, shall be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan;
 - l. All temporary and permanent EPSC measures shall be maintained and repaired as needed by the permittee to ensure continued performance of their intended function, as determined by the City Engineer or their designee; and
 - m. Proposed structures; location and identification of any proposed additional buildings, structures, or development on the site.
11. *Construction General Permit (CGP) EPSC Phasing.* The Stormwater Pollution Prevention Plan and EPSC Plans prepared for the Land Disturbance Permit application shall be consistent with the requirements of the current CGP in addition to the following requirements:
 - a. Development or redevelopment exceeding fifty (50) acres of disturbance at one time must perform twice-monthly, site-wide LDP audits conducted by a person with one or more of the following active qualifications:
 - i. Registered professional engineer,
 - ii. Registered landscape architect, and/or
 - iii. TDEC Level 2 Certification.
 - b. The City shall complete LDP audits with either City staff or consultant services. The LDP permit holder will be responsible for reimbursing the City for all costs associated with the LDP audits on a monthly basis.
 - c. The report shall be provided to the City Engineer or their designee, and the LDP permit holder.
 - d. A copy of the report shall be maintained with the on-site SWPPP.

18-204. - Stormwater system design: Construction and permanent stormwater management performance standards.

1. *SCM or BMP Design manuals.*

- a. *Adoption.* The municipality adopts as its SCM design and Best Management Practices (BMP) manual the following publications, which are incorporated by reference in this chapter as is fully set out herein:
 - i. Tennessee Erosion and Sediment Control Handbook;
 - ii. Tennessee Permanent Stormwater Management and Design Guidance Manual;
 - iii. Metro Nashville Stormwater Management Manual Volume 4 and 5; and
 - iv. Hendersonville Construction Manual.
- b. These manuals include a list of acceptable BMPs and a selection of SCMs including the specific design performance criteria, inspection, operation and maintenance requirements for each stormwater practice. Failures to properly design, install, or maintain BMPs or SCMs shall constitute a violation of this chapter.

2.

General performance criteria for stormwater management. Unless determined by the City Engineer, or their designee, to be exempt, the following performance criteria shall be addressed for stormwater management facilities at all developments or redevelopments with disturbances greater than or equal to 1 acre or part of a common plan of development or sale:

- a. Shall reduce the post-development peak flow rates for the 2-, 5-, 10-, 25-, 50-, and 100-year, 24-hour design storm to pre-development rates;
 - b. Protect stream channels from degradation, specific channel protection criteria shall be provided as determined by the design engineer based on shear stress and erosion potential;
 - c. Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs, etc.) or Exceptional Tennessee Waters may be subject to additional performance criteria or may need to utilize or restrict certain stormwater management facilities or SCMs;
 - d. Stormwater discharges from priority areas may require the application of additional SCMs and pollution prevention practices;
 - e. Shall meet a stormwater quantity level of service defined by:
 - i. Design road catch basins and connecting culverts to convey the 25-year design storm peak flow with a spread of less than one-half (½) the travel way.
 - f. Bridges, culverts, channels, and cross drains shall be designed in a way that:
 - i. Collector roads shall be designed to have no overtopping of the road during the 100-year, 24-hour design storm peak flow.
 - ii. Other existing roads (as impacted by new or existing development) shall be designed to have no overtopping of the road during the 25-year, 24-hour design storm peak flow.
 - iii. Other new roads shall be designed to have no overtopping of the road during the 25-year, 24-hour design storm peak flow.
 - g. Prior to or during the site design process, applicants for land disturbance permits shall consult with the City Engineer, or their designee, to determine if they are subject to additional stormwater design requirements; and
 - h. 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, quality, and rate of runoff.
3. *Drainage report requirements.* The Drainage Report shall include sufficient information to allow the City Engineer, or their designee, to evaluate environmental characteristics of the project site, the potential impacts of all proposed development or redevelopment of the site (both present and future) on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. To accomplish this goal the Drainage Report shall include the following:
- a. *Topographic Base Map.* A one (1) inch equals one hundred (100) foot topographic base map of the basin (minimum two (2) foot contours) containing the site which extends a minimum of one hundred (100) feet beyond the limits of the basin of the proposed development and indicates:
 - i. Existing surface water drainage including streams, ponds, culverts, ditches, sink holes, wetlands; and the type, size, invert elevation, etc., of the two (2) nearest upstream and downstream drainage structures;
 - ii. Current land use including all existing structures, locations of utilities, roads, and easements;
 - iii. All other existing significant natural and artificial features;
 - iv. Proposed land use with tabulation of the percentage of surface area to be adapted to various uses;
 - v. Drainage patterns (including time of concentration path);
 - vi. Proposed limits of disturbance;
 - vii. Existing and proposed stormwater management facilities and systems;
 - viii. Existing and proposed SCMs; and
 - ix. A written description of the site plan and justification of proposed changes in natural conditions may also be required.
 - b. *Calculations.* Hydrologic and hydraulic design calculations prepared by a Tennessee Licensed Engineer for the pre-development and post-development conditions for the design storms specified in the stormwater design, BMP and SCM manuals. These calculations must show that the proposed stormwater management measures are capable of controlling from the site in compliance with this chapter and the guidelines of the approved BMP and SCM manuals. Such calculations shall include:
 - i. A description of the design storm frequency, duration, and intensity where applicable;
 - ii. Time of concentration;
 - iii. Soil curve numbers or runoff coefficients for pre-development (prior to any land alteration) and post-development conditions;
 - iv. Design of EPSC measures based on the 2-year, 24-hour design storm, unless the site discharges into a water with unavailable parameters due to siltation/sedimentation or Exceptional Tennessee Waters which shall be based on the 5-year, 24-hour design storm;
 - v. Post-development peak runoff discharge for each watershed for the 2-, 5-, 10-, 25-, 50-, and 100-year, 24-hour design storms showing discharge controlled to release at rates equal to or less than that of pre-development;
 - vi. Infiltration rates, where applicable;
 - vii. The location, size, and capacity of proposed stormwater management facilities and systems as well as the two (2) existing storm. Water management structures in every direction that will receive runoff immediately downstream of the proposed development (including size, material, slope and invert elevations);
 - viii. Culvert, stormwater conduit, ditch and/or other stormwater conveyance capacities;

- ix. Flow velocities;
 - x. Documentation of sources for all computation methods and field test results; and
 - xi. Calculations showing compliance with the WQTV table as provided within this section.
- c. *Soils Information.* If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report/infiltration testing shall be submitted. The soils report shall be based on on-site boring logs or test pit profiles and soil survey reports. The number and location of required soil borings or test pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the SCM and the bedrock elevation.
- d. *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. A registered landscape architect must prepare this plan.
4. *Long-Term Maintenance Plan (LTMP) Requirements.* The LTMP shall include sufficient information on the inspection and maintenance requirements of the stormwater management facilities, system, and SCMs located on the subject property. The LTMP shall detail the frequency and procedure necessary to ensure that the stormwater management facilities, system, and SCMs can meet the performance standards of this chapter and provide full treatment capacity within seventy-two (72) hours following the end of the preceding rain event. The LTMP shall be prepared by a registered professional engineer or registered landscape architect, preferably the site designer. The LTMP shall include the following:
- a. *Inspection and Maintenance Plan.* These plans will identify the location of each SCM and/or stormwater management facility, frequency of inspections, necessary maintenance activities, and required qualifications of the inspector. A permanent elevation benchmark shall be identified in the plans to assist in the periodic inspection of the facility.
 - b. *Maintenance Easements.* The applicant must ensure access to the site for the purpose of inspection and maintenance 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 land record.
 - c. *Inspection and Maintenance Agreement (IMA).*
 - i. The owner of property to be served by an on-site stormwater management facility must execute an inspection, operation, and maintenance agreement that shall operate as a deed restriction binding on the current property owner and all subsequent property owners.
5. *Stormwater Quality Design Standards.* To implement the objectives of this chapter, the following general stormwater quality policy statements shall apply:
- a. There shall be no distinctly visible floating scum, oil, or other matter contained in the stormwater discharge.
 - b. The stormwater discharge must not cause an objectionable color contrast in the receiving stream.
 - c. The design storm for water quality treatment design shall be the 1-year, 24-hour design storm event.
 - d. All roof runoff is presumed to be contaminated and, therefore, is to be included within the water quality treatment volume.
 - e. The water quality treatment volume (WQTV) is the portion of the runoff generated from impervious surfaces at a new development or redevelopment project from the design storm. SCMs must be designed, at a minimum to achieve an overall treatment efficiency of eighty percent (80%) TSS removal from the WQTV. The quantity of the WQTV that must be provided from a new development or redevelopment depends on the type of treatment provided, as established in the following table:

Table 18-2. Water Quality Treatment Volume Requirements

Water Quality Treatment Volume and the Corresponding SCM Treatment Type for the 1-year, 24-hour design storm		
SCM Treatment Type	WQTV	Notes
Infiltration, evaporation, transpiration, and/or reuse	Runoff generated from the first one (1) inch of the design storm	Examples include, but are not limited to, bioretention, stormwater wetlands, and infiltration systems.
Biologically active filtration, with an underdrain	Runoff generated from the first one point twenty-five (1.25) inches of the design storm	To achieve biologically active filtration, SCMs must provide minimum of twelve (12) inches of internal water storage.

Sand or gravel filtration, settling ponds, extended detention ponds, and wet ponds	Runoff generated from the first two point five (2.5) inches of the design storm or the design or the first seventy-five percent (75%) of the design storm, whichever is less	Examples include, but are not limited to, sand filters, permeable pavers, and underground gravel detention systems. Ponds must provide forebays comprising a minimum of ten percent (10%) of the total design volume. Existing regional ponds are not subject to the forebay requirement.
Hydrodynamic separation, baffle box settling, other flow-through manufactured treatment devices (MTDs), and treatment trains using MTDs	Maximum runoff generated from the entire design storm	Flow-through MTDs must provide an overall treatment efficiency of at least eighty percent (80%) TSS reduction.

f. Treatment trains using MTDs shall use the following calculation:

$$R = A + B - (A \times B) / 100$$

Where:

R = total TSS percent removal from application of both SCMs

A = the TSS percent removal rate applicable to the first SCM

B = the TSS percent removal rate applicable to the second SCM

TSS removal rates for MTDs must be evaluated using industry-wide standards.

TSS removal rates for other SCMs must be from published reference literature.

g. Treatment trains using infiltration, evaporation, transpiration, reuse, or biologically active filtration followed by sand or gravel filtration, settling ponds, extended detention ponds, or wet ponds may subtract the treated WQTV of the upstream SCMs from the WQTV of the downstream SCMs.

h. Additional requirements for infiltration-based SCM treatment devices are as follows:

i. Infiltration testing shall be required for infiltration-based SCMs;

ii. The site engineer shall select the appropriate infiltration testing methodology, such as those provided within the Metro Nashville Stormwater Management Manual Volume 5; and

iii. At a minimum, testing shall identify a minimum 2-foot separation from bedrock and the seasonal high-water table from the invert of the infiltration-based SCM.

i. SCMs must be designed to provide full treatment capacity within 72-hours following the end of the preceding rain event for the life of the development or redevelopment.

j. *Incentive Standard.* The following types of development or redevelopment shall receive a twenty percent (20%) reduction in the water quality treatment volume for any one (1) of the following conditions:

i. Redevelopment projects (including, but not limited to, brownfield redevelopment); and

ii. Vertical density (floor to area ratio of at least two (2), or at least eighteen (18) units per acre).

(Ord. 2024-14, Sep. 10, 2024)

18-205. - Water quality riparian buffer.

1. *Applicability.* A water quality riparian buffer shall be established, protected, and maintained along all streams for developments or redevelopments that meet the requirements per Section 18-203. The goal of the water quality riparian buffer is to preserve undisturbed vegetation that is native to the streamside habitat in the area of the project. The water quality riparian buffer zone is required to protect Waters of the State located within or immediately adjacent to the boundaries of the project, as identified using methodology from standard operating procedures for hydrologic determinations. Vegetated, preferably native, water quality riparian buffers protect water bodies by providing structural integrity and canopy cover, as well as stormwater infiltration, filtration, and evapotranspiration. Refer to the tables below for water quality riparian buffer zone requirements.

Table 18-3. Temporary and Permanent Water Quality Riparian Buffer Requirements for Sites That Do Not Require CGP Coverage

Receiving Feature	Buffer Width (feet)	Notes
Waters of the State	15	Only applicable for sites that do not require a CGP.

Table 18-4. Temporary and Permanent Water Quality Riparian Buffer Requirements for sites That Do Require CGP Coverage

	Average Buffer Width (feet)	Minimum Buffer Width (feet)	Notes
Waters with available parameters for siltation/sedimentation or habitat alteration or unassessed waters	30	15	The criteria for the width of the buffer zone can be established on average width basis at a project, as long as the minimum width of buffer zone is more
Exceptional Tennessee Waters, waters with unavailable parameters for siltation or habitat alteration, or waters with federally or state threatened and endangered aquatic animal species	60	30	than the required location. If the new development or redevelopment site encompasses both sides of the stream, buffer averaging can be applied to both sides, but must be applied independently.

- a. The buffer width shall be measured perpendicular from the top of bank on each side of the stream; around the perimeter of a pond or lake identified as Waters of the State measured as perpendicular to the contour at which normal pool is located around; and around the perimeter of a wetland identified as Waters of State.
- b. Take of any federally or state threatened or endangered aquatic species within the property and or project area is strictly prohibited.
2. *Permissible land uses.* The water quality riparian buffer is to remain undisturbed for the minimum required buffer width. The following land uses are permissible within the remaining buffer subject to approval by the City Engineer:
 - a. Greenways, biking trails, and walking trails.
 - i. Trails constructed within the buffer should prevent or minimize the generation of pollutants. If trails are constructed from impervious materials, runoff must either be directed to infiltration-based SCMs or the buffer width must be increased by the width of the trail.
 - b. Infiltration-based SCMs;
 - c. *Road and utility crossings.* Private drives and private utility crossings may also be approved by the City Engineer, or their designee, upon review of a complete submittal demonstrating that there is no feasible alternative route; and
 - d. Selective landscaping and/or habitat improvement.
3. *Development or Redevelopment Adjacent to Water Quality Riparian Buffer.* For any proposed development, redevelopment, and/or construction activity within or adjacent to a water quality riparian buffer, the following shall be required.
 - a. The location of the water quality riparian buffer shall be delineated by the applicant and boundaries shall be clearly indicated and labeled on all plats, plans, permits, and official maps;
 - b. Include a note on plans to reference protective covenants governing all water quality riparian buffer areas, labeled as: "Any water quality riparian buffer is subject to protective covenants recorded in the Register of Deeds (Sumner County). Disturbance and use of these areas is restricted; severe penalties apply;"
 - c. Water quality riparian buffers shall be protected during construction activities by a combination of fencing and flagging to prevent entry of construction equipment, storage, and/or stockpiling. Buffer boundaries per the approved plans shall be marked during construction activities.

(Ord. 2024-14, Sep. 10, 2024)

18-206. - Permanent stormwater management: Operation, maintenance, and inspection.

1. *As-built requirements.* Prior to land disturbance permit completion and surety release, the following must be submitted and accepted by the City:
 - a. *SCM as-built plans.* All permittees are required to submit as-built plans for any SCMs located on-site within ninety (90) days after final construction is completed. The plans must be sealed by a registered professional engineer or registered landscape architect. The plans shall include the following:
 - i. Location map of SCM(s) within project site;
 - ii. An engineer's certification letter certifying that the SCM(s) have been installed to meet the performance standards of this chapter and provide full treatment capacity within seventy-two (72) hours following the end of the proceeding rain event;
 - iii. Description of any variations from the approved design plans and specifications, if any;
 - iv. A brief description of the type of SCM(s) and basic design characteristics;
 - v. As-built design parameters including but not limited to invert elevations, outlet structure elevations, subbase layer depths, etc.;

- vi. The responsible party contact information;
- vii. Inspection schedule(s);
- viii. A brief description of or reference to maintenance procedures and frequency; and
- ix. Photographs of the installed SCMs.

b. *Stormwater infrastructure as-built plans.* For stormwater infrastructure that will be dedicated and operated by the City, the following as-built information shall be provided:

- i. Location, type, material, size, condition, and direction of flow for all inputs (including road inlets, area drains, pipes, and ditches);
- ii. Location, material, size, condition, and direction of flow for all direct connections to the MS4 stormwater management system; and
- iii. Location, material, size, condition, and direction of flow for all outlets draining into the MS4.

c. The City Engineer, or their designee, shall have the discretion to adopt provisions for a partial pro-rata release of the surety on the completion of various stages of development. In addition, occupation permits shall not be granted until corrections to all SCMs have been made and accepted by the City Engineer, or their designee.

2. *SCM Inspection Requirements.*

a. Routine inspection of all SCMs shall be performed by owner/operator or other qualified professional on a minimum annual basis or as specified in the LTMP. These inspections shall be conducted by registered professional engineer, registered landscape architect, or a person who has successfully completed the Tennessee Stormwater Management Training SCM Inspection and Maintenance Course. Owners/operators shall maintain documentation of these inspections;

b. Comprehensive inspections of all SCMs must be performed once every five (5) years by a registered professional engineer or registered professional landscape architect. Complete inspection reports for these five-year inspections shall include:

- i. SCM location(s);
- ii. Brief description of SCM(s) type and basic design characteristics;
- iii. Description of current SCM conditions;
- iv. The responsible party contact information;
- v. Inspection date;
- vi. Specific maintenance items or violations that need to be corrected by the SCM owner/operator along with timeline for maintenance;
- vii. Maintenance records, if any; and
- viii. Current photo of SCM(s).

c. Inspections, whether routine or comprehensive, shall be submitted annually to the City by July 1.

3. *Landscaping and stabilization requirements.* Any area of land from which the natural vegetative cover has been either partially or wholly cleared by disturbance activities shall be stabilized. Stabilization measures shall be initiated as soon as possible in portions of the site where construction activities have temporarily or permanently ceased. Temporary or permanent soil stabilization at the construction site (or a phase of the project) must be completed no later than fourteen (14) days (or seven (7) days for steep slopes) after the construction activity in that portion of the site has temporarily or permanently ceased. In the following situations, temporary stabilization measures are not required:

- a. Where the initiation of stabilization measures is precluded by snow cover or frozen ground conditions or adverse soggy ground conditions, stabilization measures shall be initiated as soon as practicable; or
- b. Where construction activity on a portion of the site is temporarily ceased and earth disturbing activities will be resumed within fourteen (14) days.

Permanent stabilization with perennial vegetation (using native herbaceous and woody plants where practicable) or other permanently stable, non-eroding surface shall replace any temporary measures as soon as practicable. Unpacked gravel containing fines (silt and clay sized particles), or crusher runs will not be considered a non-eroding surface. The following criteria shall apply to stabilization efforts:

- a. 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 until such time as the cover crop is established over seventy percent (70%) of the seeded area.
- b. 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.
- c. Any area of stabilization must exhibit survival of a minimum of seventy percent (70%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy percent (70%) survival for one (1) year is achieved.
- d. 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.

4. *Records of installation and maintenance activities.* Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at least three (3) years. These records shall be made available to the City of Hendersonville during inspection of the facility and at other reasonable times upon request.

18-207. - Existing locations and developments.

1. *Requirements for all existing locations and developments.* The requirements of this chapter shall apply to all locations and developments at which land disturbing activities have occurred previous to the enactment of this chapter including:
 - a. Denuded areas must be vegetated or covered under the standards and guidelines specified in the adopted manuals and on a schedule acceptable to the City Engineer, or their designee.
 - 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 rip-rap, channel lining, etc., to prevent erosion.
 - d. Trash, junk, rubbish, etc. shall be cleared from drainage ways.
 - e. Stormwater runoff shall be controlled to the extent reasonable to prevent pollution of local waters. Such control measures may include, but are not limited to, the following:
 - i. Ponds:
 1. Detention pond,
 2. Extended detention pond,
 3. Wet pond,
 4. Alternative storage measures.
 - ii. Constructed wetlands.
 - iii. Infiltration systems:
 1. Infiltration/percolation trench,
 2. Infiltration basin,
 3. Drainage (recharge) well,
 4. Porous pavement.
 - iv. Filtering systems:
 1. Catch basin inserts/media filter,
 2. Sand filter,
 3. Filter/absorption bed,
 4. Filter and buffer strips.
 - v. Open channel:
 1. Swale.
2. *Requirements for existing problem locations.* The City Engineer, or their designee, 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 minimum of ten (10) business days for compliance or submittal of a Corrective Action Plan (CAP).
3. *Inspection of existing facilities.* The City Engineer, or their designee, may, to the extent authorized by state and federal law, enter and inspect private property for the purpose of determining if there are illicit non-storm water discharges, and to establish inspection programs to verify that all stormwater management facilities, including those built before as well as after the adoption of this chapter, 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 pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the municipality's NPDES stormwater 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 SCMs.
4. *Corrections of problems subject to appeal.* Corrective measures imposed by the City are subject to appeal under this chapter.

(Ord. 2024-14, Sep. 10, 2024)

18-208. - 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 stormwater. No person shall allow discharges that are not composed entirely of stormwater. No person shall allow discharges that flow from a stormwater management facility that is not inspected in accordance with Section 18-206. Non-stormwater discharges shall include, but shall not be limited to sanitary wastewater, car wash wastewater, lawn mowing debris, lawn care chemicals, grease, soap, cleaning chemicals, radiator flushing disposal, spills from vehicle accidents, carpet cleaning wastewater, effluent from septic tanks, improper oil disposal, laundry wastewater/gray water, improper disposal of auto and household toxics. The commencement, conduct or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited except as described as follows:

- a. Uncontaminated discharges from the following sources:
 - i. Water line flushing or other potable water sources,
 - ii. Landscape irrigation or lawn watering with potable water,
 - iii. Diverted stream flows,
 - iv. Rising ground water,
 - v. Uncontaminated groundwater infiltration (infiltration is defined as water other than wastewater that enters a sewer system, including sewer service connections and foundation drains, from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow),
 - vi. Uncontaminated pumped groundwater,
 - vii. Discharges from potable water sources,
 - viii. Foundation drains,
 - ix. Air conditioning condensate,
 - x. Irrigation water,
 - xi. Springs,
 - xii. Water from crawl space pumps,
 - xiii. Footing drains,
 - xiv. Lawn watering,
 - xv. Individual residential car washing,
 - xvi. Flows from riparian habitat or wetlands,
 - xvii. Dechlorinated swimming pool discharge (typically less than one PPM chlorine),
 - xviii. Street wash water, and
 - xix. Discharges or flows from firefighting activities.
 - b. Discharges authorized by the CGP, which comply with Section 1.2.3. of the same:
 - i. Dewatering of collected stormwater and groundwater discharge in accordance with Section 4.1.3. of the CGP (filtering or chemical treatment may be necessary prior to discharge);
 - ii. Waters used to wash vehicles (of dust and soil, not process materials such as oils, asphalt, or concrete) where detergents are not used and detention and/or filtering is provided before the water leaves the site;
 - iii. Water used to control dust in accordance with CGP Section 5.5.3.7;
 - iv. Potable water sources, including waterline flushings, from which chlorine has been removed to the maximum extent practicable;
 - v. Routine external building washdown that does not use detergents or other chemicals;
 - vi. Uncontaminated, non-turbid groundwater or spring water;
 - vii. Foundation or footing drains where flows are not contaminated with pollutants (process materials such as solvent, heavy metals, etc.);
 - viii. Fire hydrant flushings;
 - ix. Landscape irrigation;
 - x. Pavement wash waters, provided spills or leaks or other toxic or hazardous substances have not occurred (unless all spill material has been removed) and where soaps, solvents, and detergents are not used; and
 - xi. Uncontaminated air conditioning or compressor condensate.
3. *Prohibition of illicit connections.* The construction, use, maintenance, or continued existence of illicit connections to the municipal separate storm sewer system is prohibited. 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. A person is considered to be in violation of this chapter if the person connects a line conveying sewage to the MS4 or allows such a connection to continue.
 4. *Reduction of stormwater pollutants by the use of SCMs.* 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 SCMs 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 stormwater associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this section. Discharges from existing SCMs that have not been maintained and/or inspected in accordance with this chapter shall be considered a violation of this chapter.
 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 stormwater, 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 Engineer, or their designee, in person, email, or by telephone 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 Engineer, or their designee, within seven (7) days of the 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 (3) years.

6. *Requirements for construction site operators.*
 - a. Construction site operators are required to control wastes such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at construction sites within the jurisdiction to avoid adverse impacts to water quality.
 - b. Construction site operators are required to minimize the migration of sediment and debris to the roadway. All sediment and debris tracked onto the roadway shall be cleaned as soon as possible, and at minimum, before the end of each workday.
7. *Priority area.* The City Engineer, or their designee, is authorized to regulate priority areas. Upon written notification by the City Engineer, or their designee, the property owner or designated facility manager of a priority area shall, at their expense, implement necessary SCMs and/or BMPs to prevent discharge of contaminated stormwater to the MS4. The City Engineer, or their designee, may require the facility to maintain inspection logs or other records to document compliance with this chapter.
8. *Suspension of MS4 Access.*
 - a. *Suspension due to Illicit Discharges in Emergency Situations.* The City may, without prior notice, suspend MS4 discharge 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 State. 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 State, or to minimize danger to persons.
 - b. *Suspension due to the Detection of Illicit Discharge.* Any person discharging to the MS4 in violation of this chapter may have their MS4 access terminated. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for reconsideration and hearing as outlined in this chapter. 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.
9. *Industrial or Construction Activity Discharge.*
 - a. Any activity subject to an industrial or construction NPDES stormwater 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 City prior to the discharges to the MS4.
 - b. Any violation of the CGP shall constitute a violation of this chapter.
10. *Monitoring of Discharges.*
 - a. *Applicability.* This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.
 - b. *Access to Facilities.*
 - i. The City shall be permitted to enter and inspect facilities subject to regulation under this chapter as often as may be necessary to determine compliance with this chapter. 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.
 - ii. Facility operators shall allow the City ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
 - iii. The City 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 stormwater discharge.
 - iv. The City 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 stormwater flow and quality shall be calibrated to ensure their accuracy.
 - v. 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 City and shall not be replaced unless otherwise notified by the City. The costs of clearing such access shall be borne by the operator.
 - vi. Unreasonable delays in allowing the City access to a permitted facility are a violation of a stormwater discharge permit and of this chapter. A person who is the operator of a facility with an NPDES permit to discharge stormwater 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 chapter.
 - vii. If the City has been refused access to any part of the premises from which stormwater is discharged, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, 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 chapter 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.

(Ord. 2024-14, Sep. 10, 2024)

1. *Enforcement authority.* The City Engineer or their designees shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this section guided by the Enforcement Response Plan (ERP). Measures authorized include:
 - a. *Verbal warnings.* At a minimum, verbal warnings must specify the nature of the violation and required corrective action.
 - b. *Written notices.* Written notices must stipulate the nature of the violation and the required corrective action, with deadlines for taking such action.
 - c. *Citations with administrative penalties.* The MS4 has the authority to assess monetary penalties, which may include civil and administrative penalties.
 - d. *Stop work orders.* Stop work orders that require construction activities to be halted, except for activities cleaning up, abating discharge, and installing appropriate control measures.
 - e. *Withholding of plan approvals or other authorizations.* Where a facility is in noncompliance, the MS4's own approval process affecting the facility's ability to discharge to the MS4 can be used to abate the violation.
 - f. *Additional measures.* The MS4 may also use other escalated measures provided under local legal authorities. The MS4 may perform work necessary to improve EPSC measures and collect the funds from the responsible party in an appropriate manner, such as collecting against the project's bond, surety, or directly billing the responsible party to pay for time and materials.
2. *Notification of violation.*
 - a. *Verbal Warning.* Verbal warning may be given at the discretion of the inspector when it appears the condition can be corrected by the violator within a reasonable time, which time shall be approved by the inspector.
 - b. *Written Notice.* Whenever the City finds that any permittee or any other person discharging stormwater has violated or is violating this chapter or a permit or order issued hereunder, the City may serve upon such person written notice of the violation. Within ten (10) business days of this notice, an explanation of the violation and a corrective action plan (CAP), to include specific required actions to be taken to correct the noncompliance, shall be submitted to the City Engineer, or their designee. 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.
 - c. *Consent Orders.* The City Engineer, or their designee, is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to paragraphs (d) and (e) below.
 - d. *Show Cause Hearing.* The City Engineer, or their designee, may order any person who violates this chapter or permit, or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action, and the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) business days prior to the hearing.
 - e. *Compliance Order.* When the City Engineer, or their designee, finds that any person has violated or continues to violate this chapter or a permit or order issued there under, he may issue an order to the violator directing that, following a specific time period, adequate structures, devices, be installed or procedures implemented and properly operated. Orders may also contain such other 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.
 - f. *Cease and Desist Orders.* When the City Engineer, or their designee, finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder, the City Engineer, or their designee, may issue an order to cease and desist all such violations and direct those persons in noncompliance to:
 - i. Comply forthwith; or
 - ii. 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.
 - g. *Conflicting standards.* Whenever there is a conflict between any standard contained in this chapter and in the manuals adopted by the municipality under this chapter, the strictest standard shall prevail.

(Ord. 2024-14, Sep. 10, 2024)

18-210. - Penalties.

1. *Violations.* Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the City, shall be guilty of a civil offense.
2. *Penalties.* Under the authority provided in Tennessee Code Annotated Section 68-221-1106, the municipality declares that any person violating the provisions of this chapter may be assessed a civil penalty by the City Engineer, or their designee, of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day or the maximum allow by law for each day of violation. Each day of violation shall constitute a separate violation.
3. *Measuring civil penalties.* In assessing a civil penalty, the City Engineer, or their designee, may consider:
 - 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 or resolution for specific categories of violations; and
 - g. Any equities of the situation that outweigh the benefit of imposing any penalty or damage assessment.
4. *Recovery of damages and costs.* In addition to the civil penalties in Subsection (2) above, the City may recover:
- a. All damages proximately caused by the violator to the City, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with this chapter, or any other actual damages caused by the violation.
 - b. The costs of the City's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this chapter.
5. *Other remedies.* The City may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.
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.

(Ord. 2024-14, Sep. 10, 2024)

18-211. - Appeals Board.

There is created an Appeals Board which shall consist of three (3) members. All members shall be appointed by the Mayor with the consent of the Board of Mayor and Alderman.

1. *Term.* Appointed members shall serve for staggered terms of four (4) years and can be reappointed for two (2) additional consecutive terms.
2. *Organization.* Within ten (10) days after its appointment the Mayor will appoint one (1) chairman. The chairman of the board shall serve for a two-year term. The City Engineer, or their designee, shall be the secretary to the board and shall be the custodian of the minutes and records of the proceedings of the Board.
3. *Compensation.* All appointed members shall be compensated at a rate of one hundred dollars (\$100.00) per month for their service. Appointed members shall be removed from the Board for absence from meetings, or other just cause.
4. *Replacement.* Replacement of any appointed member of the Board, resigning or dismissed from the Board, shall be appointed by the Mayor.
5. *Duties.* The Appeals Board shall adopt such rules and regulations as it may deem necessary to conduct its business. The board, in open meeting, shall hear all appeals, under the provisions of this chapter and illicit discharges. The board shall base its decisions on the written documentation presented before it. The board shall meet at regular monthly intervals with the day and time to be determined by the board's chairman. In the event no appeals have been filed and there is no business pending, the chairman may cancel the meeting five (5) days before its scheduled date.
6. *Voting.* Three (3) members of the Appeals Board shall constitute a quorum. A majority vote of the members present shall be required for actions by the board. No member of the board shall act in any case in which he/she has a personal financial interest.
7. *Qualifications.* Members of the Appeals Board shall meet the following qualifications:
 - a. Citizen of the City of Hendersonville (at least twelve (12) months),
 - b. Experience, preferred, in stormwater, law, accounting, engineering, management, business, or government, but not required,
 - c. Must commit to attending scheduled Board meetings,
 - d. No more than two (2) members shall be from the same ward, and
 - e. Attend all necessary training.

(Ord. 2024-14, Sep. 10, 2024)

18-212. - Appeals.

1. Pursuant to Tennessee Code Annotated Section 68-221-1106(d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this chapter may appeal said penalty or damage assessment to the Appeals Board.
 - a. *Appeals to be in writing.* The appeal shall be in writing and filed with the Public Works secretary within fifteen (15) days after the civil penalty and/or damage assessment is served in any manner authorized by law.
 - b. *Public hearing.* Upon receipt of an appeal, the Appeals Board shall hold a public hearing within thirty (30) days. Ten (10) days prior notice of the time, date, and location of said hearing shall be on the City's web page. Ten (10) days notice by registered mail shall also be provided to the aggrieved party, such notice to be sent to the address provided by the aggrieved party at the time of appeal. The decision of the Appeals Board shall be final.
 - c. *Appealing decisions of the Appeals Board.* Any alleged violator may appeal a decision of the Appeals Board pursuant to the provisions of Tennessee Code Annotated, Title 27, Chapter 9, and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.). (Ord. 2003-47, Oct. 2003, Ord. 2021-17, May 2021)

(Ord. 2024-14, Sep. 10, 2024)

ARTICLE I. - STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

18-301. - Statutory authorizations.

The Legislature of the State of Tennessee has in Sections 13-7-201 through 13-7-210, Tennessee Code Annotated delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Hendersonville, Tennessee, Mayor, and the Hendersonville Board of Aldermen, do ordain as follows:

(Ord. 2024-14, Sep. 10, 2024)

18-302. - Findings of fact.

1. The City of Hendersonville, Tennessee, Mayor and its Board of Aldermen wishes to maintain eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in Title 44 of the Code of Federal Regulations (CFR), Ch. 1, Section 60.3.
2. Areas of the City of Hendersonville, Tennessee are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
3. Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(Ord. 2024-14, Sep. 10, 2024)

18-303. - Statement of purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas. This chapter is designed to:

1. Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;
2. Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
4. Control filling, grading, dredging and other development which may increase flood damage or erosion;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters, or which may increase flood hazards to other lands.

18-304. - Objectives.

The objectives of this chapter are:

1. To protect human life, health, safety, and property;
2. To minimize expenditure of public funds for costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood prone areas;
6. To help maintain a stable tax base by providing for the sound use and development of flood prone areas to minimize blight in flood areas;
7. To ensure that potential homebuyers are notified that property is in a flood prone area;
8. To maintain eligibility for participation in the NFIP.

(Ord. 2024-14, Sep. 10, 2024)

ARTICLE II. - DEFINITIONS

18-305. - Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted as to give them the meaning they have in common usage and to give this chapter its most reasonable application given its stated purpose and objectives.

1. "Accessory Structure" means a subordinate structure to the principal structure on the same lot and, for the purpose of this chapter, shall conform to the following:
 - a. Accessory structures shall only be used for parking of vehicles and storage.
 - b. Accessory structures shall be designed to have low flood damage potential.

- c. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
 - d. Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.
 - e. Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.
2. "Addition (to an existing building)" means any walled and roofed expansion to the perimeter or height of a building.
 3. "Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this chapter or a request for a variance.
 4. "Area of Shallow Flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
 5. "Area of Special Flood-related Erosion Hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.
 6. "Area of Special Flood Hazard" see "Special Flood Hazard Area."
 7. "Base Flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. This term is also referred to as the one hundred (100) year flood or the one percent (1%) annual chance flood.
 8. "Basement" means any portion of a building having its floor subgrade (below ground level) on all sides.
 9. "Building" see "Structure."
 10. "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.
 11. "Elevated Building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.
 12. "Emergency Flood Insurance Program" or "Emergency Program" means the program as implemented on an emergency basis in accordance with Section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.
 13. "Erosion" means the process of the gradual wearing away of land masses. This peril is not "per se" covered under the Program.
 14. "Exception" means a waiver from the provisions of this chapter which relieves the applicant from the requirements of a rule, regulation, order, or other determination made or issued pursuant to this chapter.
 15. "Existing Construction" means any structure for which the "start of construction" commenced before the effective date of the initial floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.
 16. "Existing Manufactured Home Park" or "Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.
 17. "Existing Structures" see "Existing Construction."
 18. "Expansion to an Existing Manufactured Home Park or Subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
 19. "Flood" or "Flooding."
 - a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - i. The overflow of inland or tidal waters.
 - ii. The unusual and rapid accumulation or runoff of surface waters from any source.
 - iii. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph a. ii. of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
 - b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a. i. of this definition.
 20. "Flood Elevation Determination" means a determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.
 21. "Flood Elevation Study" means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) or flood related erosion hazards.

22. "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by FEMA, where the boundaries of areas of special flood hazard have been designated as Zone A.
23. "Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by FEMA, delineating the areas of special flood hazard or the risk premium zones applicable to the community.
24. "Flood Insurance Study" is the official report provided by FEMA, evaluating flood hazards, and containing flood profiles and water surface elevation of the base flood.
25. "Floodplain" or "Floodprone Area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").
26. "Floodplain Management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.
27. "Flood Protection System" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees, or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.
28. "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities and structures and their contents.
29. "Flood-related Erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.
30. "Flood-related Erosion Area" or "Flood-related Erosion Prone Area" means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high-water levels or wind-driven currents, is likely to suffer flood-related erosion damage.
31. "Flood-related Erosion Area Management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and floodplain management regulations.
32. "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
33. "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed.
34. "Functionally Dependent Use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
35. "Highest Adjacent Grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.
36. "Historic Structure" means any structure that is:
 - a. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - c. Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - d. Individually listed on the City of Hendersonville, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
 - i. By the approved Tennessee program as determined by the Secretary of the Interior; or
 - ii. Directly by the Secretary of the Interior.
37. "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water to provide protection from temporary flooding.
38. "Levee System" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.
39. "Lowest Floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.
40. "Manufactured Home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "Manufactured Home" does not include a "Recreational Vehicle."
41. "Manufactured Home Park or Subdivision II" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

42. "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by FEMA.
43. "Mean Sea Level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this chapter, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.
44. "National Geodetic Vertical Datum (NGVD)" means, as corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.
45. "New Construction" means any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.
46. "New Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this chapter or the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.
47. "North American Vertical Datum (NAVD)" means, as corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain.
48. "100-year Flood" see "Base Flood."
49. "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.
50. "Reasonably Safe from Flooding" means base flood waters will not inundate the land or damage structures to be removed from the Special Flood Hazard Area and that any subsurface waters related to the base flood will not damage existing or proposed structures.
51. "Recreational Vehicle" means a vehicle which is:
 - a. Built on a single chassis;
 - b. 400 square feet or less when measured at the largest horizontal projection;
 - c. Designed to be self-propelled or permanently towable by a light duty truck; and
 - d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
52. "Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
53. "Regulatory Flood Protection Elevation" means the "Base Flood Elevation" plus the "Freeboard." In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus one (1) foot. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least three (3) feet above the highest adjacent grade.
54. "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
55. "Special Flood Hazard Area" is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, AI-30, AE or A99.
56. "Special Hazard Area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards and shown on an FHBM or FIRM as Zone A, AO, AI-30, AE, A99, or AH.
57. "Start of Construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred and eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
58. "State Coordinating Agency" the Tennessee Emergency Management Agency, State NFIP Office, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the State.
59. "Structure" for purposes of this chapter, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.
60. "Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.
61. "Substantial Improvement" means any reconstruction, rehabilitation, addition, alteration, or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The market value of the structure should be:
 - a. The appraised value of the structure prior to the start of the initial improvement, or

- b. In the case of substantial damage, the value of the structure prior to the damage occurring. The term does not, however, include either:
 - i. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official, and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project; or
 - ii. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."
- 62. "Substantially Improved Existing Manufactured Home Parks or Subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.
- 63. "Variance" is a grant of relief from the requirements of this chapter.
- 64. "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.
- 65. "Water Surface Elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

(Ord. 2024-14, Sep. 10, 2024)

ARTICLE III. - GENERAL PROVISIONS

18-306. - Application.

This chapter shall apply to all areas within the incorporated area of the City of Hendersonville, Tennessee.

(Ord. 2024-14, Sep. 10, 2024)

18-307. - Basis for establishing the areas of special flood hazard.

The Areas of Special Flood Hazard identified on the City of Hendersonville, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) dated February 26, 2021, and Flood Insurance Rate Map (FIRM), Community Panel Numbers 47165C0394G, 47165C0401G, 47165C0402G, 47165C0403G, 47165C0404G, 47165C0406G, 47165C0407G, 47165C0408G, 47165C0409G, 47165C0411G, 47165C0412G, 47165C0413G, 47165C0414G, 47165C0416G, 47165C0418G, 47165C0476G, and 47165C0477G, dated April 17, 2012 and 47165C0383H, 47165C0384H, 47165C0391H, and 47165C0392H, dated February 26, 2021, along with all supporting technical data, are adopted by reference and declared to be a part of this chapter.

(Ord. 2024-14, Sep. 10, 2024)

18-308. - Requirement for development permit.

A development permit shall be required in conformity with this chapter prior to the commencement of any development activities.

(Ord. 2024-14, Sep. 10, 2024)

18-309. - Compliance.

No land, structure or use shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this chapter and other applicable regulations.

18-310. - Abrogation and greater restriction.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this chapter conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

(Ord. 2024-14, Sep. 10, 2024)

18-311. - Interpretation.

In the interpretation and application of this chapter, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(Ord. 2024-14, Sep. 10, 2024)

18-312. - Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of Hendersonville, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this chapter, or any administrative decision lawfully made hereunder.

(Ord. 2024-14, Sep. 10, 2024)

18-313. - Penalties for violation.

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this chapter or fails to comply with any of its requirements shall, upon adjudication, therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Hendersonville, Tennessee from taking such other lawful actions to prevent or remedy any violation. Nothing herein contained shall prevent the City of Hendersonville, Tennessee from taking such other lawful actions to prevent or remedy any violation.

(Ord. 2024-14, Sep. 10, 2024)

ARTICLE IV. - ADMINISTRATION

18-314. - Designation of ordinance administrator.

The Public Works Director is hereby appointed as the Administrator to implement the provisions of this chapter.

(Ord. 2024-14, Sep. 10, 2024)

18-315. - Permit procedures.

Application for a development permit shall be made to the Administrator on forms furnished by the community prior to any development activities. The development permit may include but is not limited to the following: Plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

1. *Application stage.*

- a. Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where Base Flood Elevations are available, or to certain height above the highest adjacent grade when applicable under this chapter.
- b. Elevation in relation to mean sea level to which any non-residential building will be floodproofed where Base Flood Elevations are available, or to certain height above the highest adjacent grade when applicable under this chapter.
- c. A FEMA Floodproofing Certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in Article V, Sections 18-317 and 18-318.
- d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- e. A final Finished Construction Elevation Certificate (FEMA Form 086-0- 33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities.
- f. In order to determine if improvements or damage meet the Substantial Improvement or Substantial Damage criteria, the applicant shall provide to the Floodplain Administrator a detailed cost to repair all damages and/or cost of improvements which includes the complete costs associated with all types of work necessary to completely repair or improve a building. These include the costs of all materials, labor, and other items necessary to perform the proposed work. These must be in the form of:
 - i. An itemized cost of materials, and labor, or estimates of materials and labor that are prepared by licensed contractors or professional construction cost estimators.
 - ii. Building valuation tables published by building code organizations and cost-estimating manuals and tools available from professional building cost-estimating services.
 - iii. A qualified estimate of costs that is prepared by the local official using professional judgement and knowledge of local and regional construction costs.
 - iv. A detailed cost estimate provided and prepared by the building owner. This must include as much supporting documentation as possible (such as pricing information from lumber companies, plumbing and electrical suppliers, etc). In addition, the estimate must include the value of labor, including the value of the owner's labor.

2. Construction Stage Within AE Zones, where Base Flood Elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The Administrator shall record the elevation of the lowest floor on the development permit. When floodproofing, is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where Base Flood Elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The Administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

For all new construction and substantial improvements, the permit holder shall provide to the Administrator an as-built certification of the lowest floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

3. Finished Construction Stage A final Finished Construction Elevation Certificate is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Administrator will keep the certificate on file in perpetuity.

(Ord. 2024-14, Sep. 10, 2024)

18-316. - Duties and responsibilities of the administrator.

Duties of the Administrator shall include, but not be limited to, the following:

1. Review all development permits to assure that the permit requirements of this chapter have been satisfied, and that proposed building sites will be reasonably safe from flooding.
2. Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
3. Notify adjacent communities and the Tennessee Emergency Management Agency, state NFIP Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.
4. For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRM's through the Letter of Map Revision process.
5. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.
6. Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with Article IV, Section 18-315.
7. Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with Article IV, Section 18-315.
8. When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with Article IV, Section 18-315.
9. Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter.
10. When Base Flood Elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any Base Flood Elevation and floodway data available from a federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the City of Hendersonville, Tennessee FIRM meet the requirements of this chapter.
11. Maintain all records pertaining to the provisions of this chapter in the office of the Administrator and shall be open for public inspection. Permits issued under the provisions of this chapter shall be maintained in a separate file or marked for expedited retrieval within combined files.
12. A final Finished Construction Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. The Finished Construction Elevation Certificate certifier shall provide at least two (2) photographs showing the front and rear of the building taken within ninety (90) days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these

photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least two (2) additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least three (3) inch by three (3) inch digital photographs are acceptable.

(Ord. 2024-14, Sep. 10, 2024)

ARTICLE V. - PROVISIONS FOR FLOOD HAZARD REDUCTION

18-317. - General standards.

In all areas of special flood hazard, the following provisions are required:

1. New construction and substantial improvements shall be anchored to prevent flotation, collapse, and lateral movement of the structure;
2. Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces;
3. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
4. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;
5. All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
9. Any alteration, repair, reconstruction, or improvements to a building that is in compliance with the provisions of this chapter, shall meet the requirements of "new construction" as contained in this chapter;
10. Any alteration, repair, reconstruction, or improvements to a building that is not in compliance with the provision of this chapter, shall be undertaken only if said nonconformity is not further extended or replaced;
11. All new construction and substantial improvement proposals shall provide copies of all necessary federal and state permits, including Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334;
12. All subdivision proposals and other proposed new development proposals shall meet the standards of Article V, Section 18-318;
13. When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction;
14. When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple Base Flood Elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest Base Flood Elevation.

(Ord. 2024-14, Sep. 10, 2024)

18-318. - Specific standards.

In all Areas of Special Flood Hazard, the following provisions, in addition to those set forth in Article V, Section 18-317, are required:

1. *Residential Structures.*

In AE Zones where Base Flood Elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than two (2) feet above the Base Flood Elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Within approximate A Zones where Base Flood Elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three (3) feet above the highest adjacent grade (as defined in Article II). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

2. *Non-Residential Structures.*

In AE Zones, where Base Flood Elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than two (2) feet above the level of the Base Flood Elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

In approximate A Zones, where Base Flood Elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three (3) feet above the highest adjacent grade (as defined in Article II). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Non-Residential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Administrator as set forth in Article IV, Section 18-315.

3. Enclosures.

All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

- a. Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria:
 - i. Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
 - ii. The bottom of all openings shall be no higher than one (1) foot above the finished grade;
 - iii. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- b. The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.
- c. The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of Article V, Section 18-318.

4. Standards for Manufactured Homes and Recreational Vehicles.

- a. All manufactured homes placed, or substantially improved, on:
 - i. Individual lots or parcels,
 - ii. In expansions to existing manufactured home parks or subdivisions, or
 - iii. In new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.
 - b. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
 - i. In AE Zones, with Base Flood Elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than two (2) feet above the level of the Base Flood Elevation; or
 - ii. In approximate A Zones, without Base Flood Elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three (3) feet in height above the highest adjacent grade (as defined in Article II).
 - c. Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of Article V, Sections 18-317 and 18-318.
 - d. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - e. All recreational vehicles placed in an identified Special Flood Hazard Area must either:
 - i. Be on the site for fewer than one hundred and eighty (180) consecutive days;
 - ii. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or
 - iii. The recreational vehicle must meet all the requirements for new construction.
5. Standards for Subdivisions and Other Proposed New Development Proposals. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.
- a. All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.
 - b. All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
 - c. All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
 - d. In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals Base Flood Elevation data (see Article V, Section 18- 321).

(Ord. 2024-14, Sep. 10, 2024)

18-319. - Standards for special flood hazard areas with established base flood elevations and with floodways designated.

Located within the Special Flood Hazard Areas established in Article III, Section 18-307, are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

1. Encroachments are prohibited, including fill, new construction, substantial improvements, or other development within the adopted regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in any increase in flood levels or floodway widths during a base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof;
2. A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the applicant first applies for a conditional letter of map revision (CLOMR) and floodway revision, fulfills the requirements for such revisions as established under the provisions of Section 65.12, and receives the approval of FEMA;
3. ONLY if Article V, Section 18-319, provisions (1) through (2) are satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of Article V, Section 18-317 and 18-318.

(Ord. 2024-14, Sep. 10, 2024)

18-320. - Standards for areas of special flood hazard zones ae with established base flood elevations but without floodways designated.

Located within the Special Flood Hazard Areas established in Article III, Section 18-307, where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

1. Require until a regulatory floodway is designated, that no new construction, substantial, or other development, including fill shall be permitted within Zone AE on the community's FIRM, unless it is demonstrated through hydrologic and hydraulic analyses performed that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.
2. A community may permit encroachments within Zones AE on the community's FIRM, that would result in an increase in the water surface elevation of the base flood, provided that the applicant first applies for a conditional letter of map revision (CLOMR) and floodway revision, fulfills the requirements for such revisions as established under the provisions of Section 65.12, and receives the approval of FEMA;
3. ONLY if Article V, Section 18-320, provisions (1) through (2) are satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of Article V, Sections 18-317 and 18-318.

(Ord. 2024-14, Sep. 10, 2024)

18-321. - Standards for streams without established base flood elevations and floodways (A Zones).

Located within the Special Flood Hazard Areas established in Article III, Section 18-307, where streams exist, but no base flood data has been provided and where a Floodway has not been delineated, the following provisions shall apply:

1. The Administrator shall obtain, review, and reasonably utilize any Base Flood Elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see 2 below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of Article V, Sections 18-317 and 18-318.
2. Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals Base Flood Elevation data.
3. Within approximate A Zones, where Base Flood Elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (as defined in Article II). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in Article IV, Section 18-315. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of Article V, Section 18-318.
4. Within approximate A Zones, where Base Flood Elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty (20) feet, whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the City of Hendersonville, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
5. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Article V, Sections 18- 317 and 18-318. Within approximate A Zones, require that those subsections of Article V, Section 18-318 dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

(Ord. 2024-14, Sep. 10, 2024)

18-322. - Standards for areas of shallow flooding (Zone AO).

Located within the Special Flood Hazard Areas established in Article III, Section 18-307, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Article V, Sections 18-317 and 18-318, all new construction and substantial improvements shall meet the following requirements:

1. The lowest floor (including basement) shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of one (1) foot above the highest adjacent grade; or at least three (3) feet above the highest adjacent grade, if no depth number is specified.
2. Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Article V, Section 18-322.1. so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Article IV, Section 18-315.1.c. and Article V, Section 18-318.2.
3. Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

(Ord. 2024-14, Sep. 10, 2024)

18-323. - Standards for areas of shallow flooding (Zone AH).

Located within the Special Flood Hazard Areas established in Article III, Section 18-307, are areas designated as shallow flooding areas. These areas are subject to inundation by one percent (1%) annual chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to meeting the requirements of Article V, Sections 18-317 and 18-318, all new construction and substantial improvements shall meet the following requirements:

1. Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

(Ord. 2024-14, Sep. 10, 2024)

18-324. - Standards for areas protected by flood protection system (A-99 Zones).

Located within the Areas of Special Flood Hazard established in Article III, Section 18- 307, are areas of the 100-year floodplain protected by a flood protection system but where Base Flood Elevations have not been determined. Within these areas (A-99 Zones) all provisions of Article IV and Article V shall apply.

(Ord. 2024-14, Sep. 10, 2024)

18-325. - Standards for unmapped streams.

Located within the Hendersonville, Tennessee, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

1. No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the locality.
2. When a new flood hazard risk zone, and Base Flood Elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with Articles IV and V.
3. ONLY if Article V, Section I, provisions (1) through (2) are satisfied, then any new construction and substantial improvement shall comply with all other applicable flood hazard reduction provisions of Article V, Sections 18-317 and 18-318.

(Ord. 2024-14, Sep. 10, 2024)

ARTICLE VI. - VARIANCE PROCEDURES

18-326. - Municipal board of zoning appeals.

1. *Authority.* The City of Hendersonville, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this chapter.
2. *Procedure.* Meetings of the Municipal Board of Zoning Appeals shall be held at such times, as the Board shall determine. All meetings of the Municipal Board of Zoning Appeals shall be open to the public. The Municipal Board of Zoning Appeals shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the Municipal Board of Zoning Appeals shall be set by the Board of Aldermen.

3. *Appeals. How Taken.* An appeal to the Municipal Board of Zoning Appeals may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the Administrator based in whole or in part upon the provisions of this chapter. Such appeal shall be taken by filing with the Municipal Board of Zoning Appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of one hundred dollars (\$100.00) for the cost of publishing a notice of such hearings shall be paid by the appellant. The Administrator shall transmit to the Municipal Board of Zoning Appeals all papers constituting the record upon which the appeal action was taken. The Municipal Board of Zoning Appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than thirty (30) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.
4. *Powers.* The Municipal Board of Zoning Appeals shall have the following powers:
 - a. *Administrative Review.* To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the Administrator or other administrative official in carrying out or enforcement of any provisions of this chapter.
 - b. *Variance Procedures.* In the case of a request for a variance the following shall apply:
 - i. The City of Hendersonville, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this chapter.
 - ii. Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this chapter to preserve the historic character and design of the structure.
 - iii. In passing upon such applications, the Municipal Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:
 1. The danger that materials may be swept onto other property to the injury of others;
 2. The danger to life and property due to flooding or erosion;
 3. The susceptibility of the proposed facility and its contents to flood damage;
 4. The importance of the services provided by the proposed facility to the community;
 5. The necessity of the facility to a waterfront location, in the case of a functionally dependent use;
 6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 7. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 8. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 9. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
 10. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.
 - iv. Upon consideration of the factors listed above, and the purposes of this chapter, the Municipal Board of Zoning Appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this chapter.
 - v. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(Ord. 2024-14, Sep. 10, 2024)

18-327. - Conditions for variances.

1. Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in Article VI, Section 18-314.
2. Variances shall only be issued upon a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
3. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance (as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00)) coverage, and that such construction below the Base Flood Elevation increases risks to life and property.
4. The Administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request.

(Ord. 2024-14, Sep. 10, 2024)

ARTICLE VII. - LEGAL STATUS PROVISIONS

18-328. - Conflict with other ordinance.

In case of conflict between this chapter or any part thereof, and the whole or part of any existing or future ordinance of the City of Hendersonville, Tennessee, the most restrictive shall in all cases apply.

(Ord. 2024-14, Sep. 10, 2024)

18-329. - Severability.

If any section, clause, provision, or portion of this chapter shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this chapter which is not of itself invalid or unconstitutional.

(Ord. 2024-14, Sep. 10, 2024)

CHAPTER 4. - STORMWATER UTILITY

18-401. - Policy.

The Board of Mayor and Aldermen finds, determines, and declares that the stormwater system which provides for the collection, treatment, storage, and disposal of stormwater provides benefits and services to all property within the incorporated city limits. Such benefits include but are not limited to:

1. The provision of adequate systems of collection, conveyance, detention, treatment, and release of stormwater.
2. The reduction of hazards to property and life resulting from stormwater runoff.
 - a. Improvements in general health and welfare through reduction of undesirable stormwater conditions.
 - b. Improvements to the water quality in the stormwater and surface water system and its receiving waters.

(Ord. No. 2024-14, § 1 (Exh. A), 9-10-2024)

18-402. - Creation of stormwater utility.

For those purposes of the Federal Clean Water Act and of Tennessee Code Annotated, Section 68-221-1101 et seq., there is created a stormwater utility which shall consist of a manager or director and such staff as the municipality's governing body shall authorize.

The stormwater utility shall be directed by the Public Works Director, who shall administer it through the City Design Engineer and Stormwater Coordinator.

The stormwater utility, under the legislative policy, supervision, and control of the governing body of the City, shall:

1. Administer the acquisition, design, construction, maintenance, and operation of the stormwater utility system, including capital improvements designated in the capital improvement program;
2. Administer and enforce this chapter and all regulations and procedures adopted relating to the design, construction, maintenance, operation, and alteration of the utility stormwater system, including, but not limited to, the quantity, quality or velocity of the stormwater conveyed thereby;
3. Advise the municipality's governing body and other City departments on matters relating to the utility;
4. Prepare and revise a drainage plan for adoption by the municipality's governing body;
 - a. Review plans and approve or deny, inspect, and accept extensions and connections to the system;
 - b. Enforce regulations to protect and maintain water quality and quantity within the system in compliance with water quality standards established by state, regional or federal agencies as now adopted or hereafter amended;
 - c. Annually analyze the cost of services and benefits provided, and the system and structure of fees, charges, civil penalties, and other revenues of the utility.

(Ord. No. 2024-14, § 1 (Exh. A), 9-10-2024)

18-403. - 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.

1. "Base rate" means the stormwater user's fee for a detached single family residential property in the City.
2. "Construction" means the erection, building, acquisition, alteration, reconstruction, improvement or extension of stormwater facilities; preliminary planning to determine the economic and engineering feasibility of stormwater facilities; the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary in the construction of stormwater facilities; and the inspection and supervision of the construction of stormwater facilities.
3. "Developed property" means real property which has been altered from its natural state by the creation or addition of impervious areas, by the addition of any buildings, structures, pavement, or other improvements.
4. "Equivalent residential unit" or "ERCJ" means the average square footage of a detached single family residential property determined pursuant to this chapter.

5. "Exempt property" means all properties of the federal, state, county, and city governments, and any of their divisions or subdivisions, and portions of property that does not discharge stormwater runoff into the stormwater or flood control facilities of the municipality.
6. "Fee" or "Stormwater user's fee" means the charge established under this chapter and levied on owners or users of parcels or pieces of real property to fund the costs of stormwater management and of operating, maintaining, and improving the stormwater system in the municipality. The stormwater user's fee is in addition to any other fee that the municipality has the right to charge under any other rule or regulation of the municipality.
7. "Fiscal year" means July 1 of a calendar year to June 30 of the next calendar year, both inclusive.
8. "Impervious surface" means a surface which is compacted or covered with material that is resistant to infiltration by water, including, but not limited to, most conventionally surfaced streets, roofs, sidewalks, patios, driveways, parking lots, and any other oiled, graveled, graded, compacted, or any other surface which impedes the natural infiltration of surface water.
9. "Impervious surface area" means the number of square feet of horizontal surface covered by buildings, and other impervious surfaces. All building measurements shall be made between exterior faces of walls, foundations, columns or other means of support or enclosure.
10. "Other developed property" means a parcel of developed land that cannot be classified as a single-family residential property. Non-single-family residential properties include, but are not limited to, commercial properties, industrial properties, public buildings and other structures, storage buildings and storage areas covered with impervious surfaces, parking lots, parks, recreation properties, cemeteries, public and private schools, colleges and universities, churches, research stations, hospitals, healthcare and convalescent centers, airports, agricultural lands covered by impervious surfaces, and multiple dwelling unit residential properties that do not meet the definition of single-family residential property.
11. "Person" 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.
12. "Property owner" means the property owner of record as listed in the county's assessment roll. A property owner includes any individual, corporation, firm, partnership, or group of individuals acting as a unit, and any trustee, receiver, or personal representative.
13. "Single-family residential property" means a parcel of developed land which serves the primary purpose of providing residential housing for single families in individual dwelling units, where individual dwelling units are not located above or below other dwelling units. In single-family residential properties, a dwelling unit occupies the entire space from ground level to rooftop, regardless of the number of stories of the unit. The term "single-family residential property" may include, but is not limited to, single-family residential detached homes, buildings that were originally constructed as single-family homes but were subsequently converted into multiple dwelling units within the original structure, mobile homes, and single-family attached homes (duplexes, triplexes, etc.), apartments, condominiums, and townhomes provided that individual dwelling units do not have other dwelling units located above or below.
14. "Stormwater" means stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration, and drainage.
15. "Stormwater management fund" or "fund" means the fund created by this chapter to operate, maintain, and improve the City's stormwater system.
16. "Stormwater management" means the planning, design, construction, regulation, improvement, repair, maintenance, and operation of facilities and programs relating to water, flood plains, flood control, grading, erosion, tree conservation, and sediment control.
17. "Surface water" includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other water courses, lakes, and reservoirs.
18. "User" shall mean the owner of record of property subject to the stormwater user's fee imposed by this chapter.

(Ord. No. 2024-14, § 1 (Exh. A), 9-10-2024)

18-404. - Funding of the stormwater utility.

Funding for the stormwater utility's activities may include, but not be limited to, the following:

1. Stormwater user's fees.
2. Civil penalties and damage assessments imposed for or arising from the violation of the City's stormwater management ordinance.
3. Other funds or income obtained from federal, state, local, and private grants, or revolving funds, and from the Local Government Public Obligations Act of 1986 (Tennessee Code Annotated, Title 9, Chapter 21).

To the extent that the stormwater drainage fees collected are insufficient to construct needed stormwater drainage facilities, the cost of the same may be paid from such City funds as may be determined by the municipality's governing body.

(Ord. No. 2024-14, § 1 (Exh. A), 9-10-2024)

18-405. - Stormwater fund.

All revenues generated by or on behalf of the stormwater utility shall be deposited in a stormwater utility fund and used exclusively for the stormwater utility.

(Ord. No. 2024-14, § 1 (Exh. A), 9-10-2024)

18-406. - Operating budget.

The municipality's governing body shall adopt an operating budget for the stormwater utility each fiscal year. The operating budget shall set forth for such fiscal year the estimated revenues and the estimated costs for operations and maintenance, extension and replacement and debt service.

(Ord. No. 2024-14, § 1 (Exh. A), 9-10-2024)

18-407. - Stormwater user's fee established.

There shall be imposed on each and every developed property in the City, except exempt property, a storm water user's fee, which shall be set from time to time by ordinance or resolution, and in the manner and amount prescribed by this chapter.

Prior to establishing or amending user's fees, the municipality shall advertise its intent to do so by publishing notice in a newspaper of general circulation in the City at least thirty (30) days in advance of the meeting of the municipality's governing body which shall consider the adoption of the fee or its amendment.

(Ord. No. 2024-14, § 1 (Exh. A), 9-10-2024)

18-408. - Equivalent residential unit (ERU).

1. *Establishment.* There is established for purposes of calculating the stormwater user's fee the equivalent residential unit (ERU).
2. *Definition.* The ERU is the average square footage of a detached single-family residential property.
3. *Setting the ERU.* The ERU shall be set by the municipality's governing body from time to time by ordinance or resolution.
4. *Source of ERU.* The municipality's governing body shall have the discretion to determine the source of the data from which the ERU is established, taking into consideration the general acceptance and use of such source on the part of other stormwater systems, and the reliability and general accuracy of the source. The municipality's governing body shall have the discretion to determine the impervious surface area of other developed property through property tax assessor's rolls or site examination, mapping information, aerial photographs, and other reliable information.

(Ord. No. 2024-14, § 1 (Exh. A), 9-10-2024)

18-409. - Property classification for stormwater user's fee.

1. *Property classifications.* For purposes of determining the stormwater user's fee, all properties in the City are classified into one of the following classes:
 - a. Single-family residential property;
 - b. Other developed property; or
 - c. Exempt property.
2. *Single-family residential fee.* The municipality's governing body finds that the intensity of development of most parcels of real property in the municipality classified as single-family residential is similar and that it would be excessively and unnecessarily expensive to precisely determine the square footage of the improvements (such as buildings, structures, and other impervious areas) on each such parcel. Therefore, all single-family residential properties in the City shall be charged a flat stormwater management fee, equal the base rate, regardless of the size of the parcel or the improvements.
3. *Other developed property fee.* The fee for other developed property (i.e., non-single-family residential property) in the municipality shall be the base rate multiplied by the numerical factor obtained by dividing the total impervious area (square feet) of the property by one (1) ERU. The impervious surface area for other developed property is the square footage for the buildings and other improvements on the property. The minimum stormwater management fee for other developed property shall equal the base rate for single-family residential property.
4. *Exempt property.* There shall be no stormwater user's fee for exempt property.

(Ord. No. 2024-14, § 1 (Exh. A), 9-10-2024)

18-410. - Base rate.

The municipality's governing body shall, by ordinance or resolution, establish the base rate for the stormwater user's fee. The base rate shall be calculated to ensure adequate revenues to fund the costs of stormwater management and to provide for the operation, maintenance, and capital improvements of the stormwater system in the City. The base rate for the stormwater user shall be six dollars (\$6.00) per month per ERU.

(Ord. No. 2024-14, § 1 (Exh. A), 9-10-2024)

18-411. - Adjustments to stormwater user's fees.

The stormwater utility shall have the right on its own initiative to adjust upward or downward the stormwater user's fees with respect to any property, based on the approximate percentage on any significant variation in the volume or rate of stormwater, or any significant variation in the quality of stormwater, emanating from the property, compared to other similar properties. In making determinations of the similarity of property, the stormwater utility shall take into consideration the location, geography, size, use, impervious area, stormwater facilities on the property, and any other factors that have a bearing on the variation.

(Ord. No. 2024-14, § 1 (Exh. A), 9-10-2024)

18-412. - Property owner's to pay charges.

The owner of each non-exempt lot or parcel shall pay the stormwater user's fees and charges as provided in this chapter.

(Ord. No. 2024-14, § 1 (Exh. A), 9-10-2024)

18-413. - Billing procedures and penalties for late payment.

1. *Rate and collection schedule.* The stormwater user's fee must be set at a rate, and collected on a schedule, established by ordinance.
2. *Delinquent bills.* The stormwater user's fee shall be paid in person or by mail at The City of Hendersonville, Public Works Department, 101 Maple Drive North, Hendersonville, TN 37075 and shall become delinquent as of twenty-eight (28) days following the billing.
3. *Penalties for late payment.* Stormwater user's fees shall be subject to a late fee of fifty dollars (\$50.00). The municipality shall be entitled to recover fees incurred in collecting delinquent drainage fees. Any charge due under this chapter which shall not be paid may be recovered at law by the municipality.
4. *Mandatory statement.* Pursuant to Tennessee Code Annotated § 68-221-1112, each bill that shall contain stormwater user's fees shall contain the following statement in bold:

THIS FEE HAS BEEN MANDATED BY CONGRESS

(Ord. No. 2024-14, § 1 (Exh. A), 9-10-2024)

18-414. - Appeals of fees.

1. *General.* Any person who disagrees with the calculation of the stormwater user's fee, as provided in this chapter, or who seeks a stormwater user's fee adjustment based upon stormwater management practices, may appeal such fee determination to the Citizens Stormwater Appeals Board within thirty (30) days from the date of the last bill containing stormwater user's fees charges. Any appeal shall be filed in writing and shall state the grounds for the appeal. The Citizens Stormwater Appeals Board may request additional information from the appealing party.
2. *Adjustments.* Stormwater user's fee adjustments for stormwater management practices may be considered for: Reductions in runoff volume including discharge to non-city drainage system; and properly designed constructed and maintained existing retention facilities, i.e. evaporation and recharge. Based upon the information provided by the utility and the appealing party, the Citizens Stormwater Appeals Board shall make a final calculation of the stormwater drainage fee. The Citizens Stormwater Appeals Board shall notify the parties, in writing, of its decision.

(Ord. No. 2024-14, § 1 (Exh. A), 9-10-2024)