

**OAK RIDGE CITY COUNCIL MEETING**  
Municipal Building Courtroom

February 8, 2016 —7:00 p.m.

AGENDA

- I. INVOCATION  
Pastor Robert May, Oak Ridge Bible Church
- II. PLEDGE OF ALLEGIANCE
- III. ROLL CALL
- IV. APPEARANCE OF CITIZENS
- V. PROCLAMATIONS AND PUBLIC RECOGNITIONS  
A proclamation honoring Terry Domm.  
A proclamation honoring William R. Tedford.  
A proclamation designating March 4, 2016 as Arbor Day.
- VI. SPECIAL REPORTS  
City Attorney Evaluation Committee report, by Chair Chuck Hope.
- VII. CONSENT AGENDA
  - a. Approval of the January 11, 2016 City Council meeting minutes.
  - b. Approval of the January 19, 2016 City Council special meeting minutes.
  - c. A RESOLUTION AWARDED A CONTRACT TO INGRAM EQUIPMENT COMPANY, LLC, PELHAM, ALABAMA, TO REFURBISH THE VAC-CON SEWER VACUUM TRUCK FOR THE PUBLIC WORKS DEPARTMENT IN THE ESTIMATED AMOUNT OF \$80,000.00.
  - d. A RESOLUTION AUTHORIZING THE TRANSFER OF TAX EQUIVALENTS FROM THE ELECTRIC AND WATERWORKS FUNDS TO THE GENERAL FUND FOR THE FISCAL YEAR ENDING JUNE 30, 2016, AND TO AUTHORIZE ITS DISTRIBUTION BETWEEN THE CITY OF OAK RIDGE AND ANDERSON AND ROANE COUNTIES IN ACCORDANCE BY STATE LAW.
- VIII. RESOLUTIONS
  - a. A RESOLUTION INDICATING THE INTENT OF CITY OF OAK RIDGE, TENNESSEE, TO ISSUE ITS BONDS OR OTHER OBLIGATION OF INDEBTEDNESS TO FINANCE THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF SCHOOL FACILITIES FOR USE AS A PRE-KINDERGARTEN.
- IX. PUBLIC HEARINGS AND FIRST READING OF ORDINANCES
  - a. AN ORDINANCE TO AMEND TITLE 14, TITLED "ZONING AND LAND USE CONTROL," OF THE CODE OF ORDINANCES, CITY OF OAK RIDGE, TENNESSEE, BY DELETING CHAPTER 5, TITLED "EROSION CONTROL AND STORMWATER MANAGEMENT," IN ITS

ENTIRETY AND SUBSTITUTING THEREFOR A NEW CHAPTER 5, TITLED "STORMWATER MANAGEMENT," FOR THE PURPOSE OF COMPLIANCE WITH THE STATE OF TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION (TDEC) MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PROGRAM.

- X. FINAL ADOPTION OF ORDINANCES
- XI. ELECTIONS/APPOINTMENTS, ANNOUNCEMENTS AND SCHEDULING
  - a. Elections/Appointments
  - b. Announcements
  - c. Scheduling
- XII. COUNCIL REQUESTS FOR NEW BUSINESS ITEMS OR FUTURE BRIEFINGS
- XIII. SUMMARY OF CURRENT EVENTS
  - a. CITY MANAGER'S REPORT
    - Update on Waste Connections Contract Extension
  - b. CITY ATTORNEY'S REPORT
- XIV. ADJOURNMENT

**PROCLAMATIONS  
AND  
PUBLIC RECOGNITIONS**

**CITY CLERK MEMORANDUM**  
**16-03**

**DATE:** January 29, 2016  
**TO:** Honorable Mayor and Members of City Council  
**FROM:** Bruce M. Applegate Jr., Acting City Clerk  
**SUBJECT:** PROCLAMATIONS FOR THE CITY COUNCIL AGENDA

The following proclamations are presented for the February 8, 2016 City Council meeting for the City Council's consideration.

Arbor Day

This request was submitted by the Oak Ridge Department of Parks and Recreation to proclaim March 4, 2016 as Arbor Day. Jon Hetrick of the Parks and Recreation Department will be in attendance to accept the proclamation.

Terry Domm Recognition

This request was submitted by the Oak Ridge Planning Commission notifying the City of Oak Ridge of Terry Domm's withdrawal from his position on the board. Terry Domm will be in attendance to accept the proclamation.

William R. "Randy" Tedford Recognition

This request was submitted by the Oak Ridge Beer Permit Board notifying the City of Oak Ridge of William R. "Randy" Tedford's withdrawal from his current board positions. William R. "Randy" Tedford will be in attendance to accept the proclamation.



Bruce M. Applegate Jr.  
Acting City Clerk

Attachments:  
Arbor Day Proclamation  
Terry Domm Proclamation  
William R. "Randy" Tedford Proclamation

# PROCLAMATION

**WHEREAS**, Terry Domm has served 29 years on the Oak Ridge Planning Commission from 1987-2016, serving 27 years as Chairman; and

**WHEREAS**, during this period he served ably as a Commissioner, reviewing many development site plans, providing helpful input in the annual review of the Capital Improvements Program with careful attention to the budgetary needs of the City, providing staff recommendations for various Zoning Ordinance Amendments; and

**WHEREAS**, under Terry Domm's leadership, the Planning Commission developed a Long Range Comprehensive Plan, City Center Plan, Melton Lake Waterfront Plan, Bicycle Pedestrian Plan, and the South Illinois Avenue Corridor Study, and these documents have guided the Planning Commission in quality growth, and development of the built environment while maintaining the beauty of our open spaces; and

**WHEREAS**, Terry Domm has been a contributing member of the social fabric of Oak Ridge through volunteer activities including the Rotary Club of Oak Ridge, as a coach and on the Board of Girls Inc., and a long standing member of Grace Lutheran Church; and

**NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:**

That in recognition of the distinguished service and contributions to the Oak Ridge community, the City of Oak Ridge pays tribute to

**TERRY DOMM**

**BE IT FURTHER RESOLVED** that the City commends his leadership as a member and Chairman of the Oak Ridge Planning Commission from 1987-2016, and his contributions to the Oak Ridge community.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Great Seal of the City of Oak Ridge to be affixed, this the 8<sup>th</sup> day of February in the year 2016.

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**WARREN L. GOOCH**  
**MAYOR**

# PROCLAMATION

**WHEREAS**, William R. "Randy" Tedford has been a public servant for the Oak Ridge community since 1973; and

**WHEREAS**, on April 16, 1973, he began employment with the City of Oak Ridge, Tennessee, as a Patrolman, was promoted to Sergeant on October 15, 1989, and served as an acting Lieutenant on two occasions; and

**WHEREAS**, after retiring from the City on January 3, 2003, he continued his service to the community through serving on the Oak Ridge Beer Permit Board since January 6, 2003 with much of that time spent as Chairperson, and serving on the Personnel Advisory Board since November 1, 2004; and

**WHEREAS**, after retiring from the City he continued his service to the community in law enforcement at the Anderson County Sheriff's Department; and

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:**

That in recognition of the distinguished service and contributions to the Oak Ridge community, the City of Oak Ridge pays tribute to

**WILLIAM R. "RANDY" TEDFORD**

**BE IT FURTHER RESOLVED** that the City commends his leadership as a member and Chairman of the Oak Ridge Beer Permit Board (January 3, 2003 - December 31, 2015) and as a member of the Personnel Advisory Board (November 1, 2004 - December 31, 2015), and his contributions to the Oak Ridge community.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Great Seal of the City of Oak Ridge to be affixed, this the 8<sup>th</sup> day of February in the year 2016.

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**WARREN L. GOOCH**  
**MAYOR**

# PROCLAMATION

**WHEREAS**, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees and this holiday, called "Arbor Day," was first observed with the planting of more than a million trees in Nebraska; and

**WHEREAS**, Arbor Day is now observed throughout the nation and the world; and

**WHEREAS**, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife; and

**WHEREAS**, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products; and

**WHEREAS**, trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community; and

**WHEREAS**, trees, wherever they are planted, are a source of joy and spiritual renewal; and

**WHEREAS**, the City of Oak Ridge has been designated a "Tree City USA" by the National Arbor Day Foundation in recognition of the city's desire to maintain an effective program of tree care and planting that will continue through the years; and

**WHEREAS**, as part of this program, the City's Recreation and Parks Department distributes seedlings to fourth graders in all five of the elementary schools each year, and this year's seedlings will be hornbeam trees; and

**WHEREAS**, the program also includes the planting of an official tree on Arbor Day of each year, in cooperation with the UT Arboretum, with the planting location being rotated among the elementary schools; and

**WHEREAS**, this year a bald cypress is being planted at Linden Elementary School in a public ceremony to take place on Friday, March 4, 2016, at 10:00 a.m.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE**, that March 4, 2016, be proclaimed

## ARBOR DAY

in the City of Oak Ridge, Tennessee, and that all citizens be urged to support efforts to protect our trees and woodlands and to support our city's urban forestry program.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Great Seal of the City of Oak Ridge to be affixed, this the 8<sup>th</sup> day of February in the year 2016.

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**WARREN L. GOOCH**  
**MAYOR**

# **SPECIAL REPORTS**

**CITY ATTORNEY EVALUATION COMMITTEE  
MEMORANDUM**

**DATE:** January 29, 2016  
**TO:** Fellow Members of City Council  
**FROM:** City Attorney Evaluation Committee  
Councilmember Chuck Hope, Chair  
Councilmember Rick Chinn  
Mayor Warren L. Gooch

**SUBJECT:** CITY ATTORNEY EVALUATION REPORT AND RECOMMENDATIONS FOR FY2015

The City Attorney Evaluation Committee met on January 28, 2016 to develop its recommendation to the Council based on their review of the completed performance evaluations of the City Attorney. Committee members Gooch, and I were present along with the City Attorney Kenneth R. Krushenski.

Following a review and discussion, the Committee unanimously recommends the continuation of Mr. Ken Krushenski's contract as the City Attorney and supports the following recommendation:

1. That the City Attorney be awarded a 2% salary increase—retroactive to the effective date of his employment agreement, March 1—consistent with the raise that all city employees received in FY2015, and a one year contract extension until March 1, 2018.  
*The salary increase will be effective to March 1, 2015 for payroll purposes.*

The attached resolution amends the City Attorney's Employment agreement to provide for the recommended salary increase and contract extension.

The Committee recommends its adoption as a measure of compensation for the City Attorney's performance as indicated by the evaluations completed by the councilmembers.

Respectfully submitted,

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Chuck Hope, Chair  
Attorney Evaluation Committee, 2015

Attachments:  
City Attorney Employment Agreement  
Resolution

**EMPLOYMENT AGREEMENT**  
**City Attorney**

This is an agreement entered into this 22 day of Feb., 2001, between the City of Oak Ridge (the City) by the City Council and Kenneth R. Krushenski (City Attorney) to provide for the employment of Kenneth R. Krushenski as City Attorney of the City of Oak Ridge and to set forth the terms and conditions of his employment and the mutual obligations, rights and duties of each party.

Now, therefore, in consideration of the mutual promises as set forth in this Agreement, the City of Oak Ridge and Kenneth R. Krushenski agree as follows:

Section 1. Duties

City Council agrees to employ Kenneth R. Krushenski as City Attorney of the City of Oak Ridge to perform the functions and duties as specified in the City Charter and the City Code, and to perform such other legally permissible and proper duties and functions as the City Council shall from time to time assign. Article III, Section 13 of the Charter of the City of Oak Ridge specifies as follows:

The City Attorney shall be responsible for representing and defending the City in all litigation in which the City is a party, shall be the prosecuting officer in the City Court, shall advise the Council, City Manager, and other officers and employees of the City concerning legal aspects of the City's affairs, shall approve as to form and legality all contracts, deeds, bonds, ordinances, resolutions, motions, and other official documents and shall perform such other duties as may be prescribed by the Council or the City Manager.

The City Attorney shall also be responsible for representing all boards and commissions sanctioned by or established by the City Council. The City Attorney shall be responsible for defending all boards and commissions in all litigation in which the respective board or commission is a party and shall attend meetings of the various boards and commissions if in the discretion of the City Attorney his attendance is necessary.

The City Attorney shall also serve as tax attorney for the City of Oak Ridge. All revenue paid to the City Attorney in his capacity as tax attorney shall be paid into the general fund of the City of Oak Ridge, Tennessee.

Section 2. Term

A. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the City Council to terminate the services of the City Attorney at any time, subject only to the provisions set forth in Section 5, Paragraphs A and B of this Agreement.

B. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the City Attorney to resign at any time.

C. Except as otherwise herein stated, this Agreement shall become effective as of March 1, 2001, and shall continue in effect until March 1, 2003, except as provided in Section 2, Paragraph D.

D. In order to extend the term of this Agreement, City Council shall take action by November 18, 2002. However, upon the request of the City Attorney during this same period, City Council shall make a decision as to whether it desires to extend said Agreement.

Section 3. Performance Evaluation

A. No later than June 1, 2001, City Council and the City Attorney shall establish performance criteria and goals and objectives which shall provide the basis for the evaluation of the City Attorney. The performance criteria and the goals and objectives will be those that are necessary for the proper operation of the City and the attainment of City Council's policy objectives. The performance criteria and the goals and objectives shall be assigned a relative priority, and shall generally be attainable within the time limitations established and within the annual operating and capital budgets and the appropriations provided. Thereafter, City Council and the City Attorney may modify the performance criteria and the goals and objectives during the annual evaluation process.

B. The first formal evaluation of the City Attorney's performance shall be completed by May 30, 2002. Thereafter, evaluations shall be conducted on an annual basis by May 30<sup>th</sup> of each year.

Section 4. Code of Ethics

The City Attorney agrees to adhere to the standards of the American Bar Association Code of Professional Responsibility and to conduct himself accordingly.

Section 5. Termination and Severance Pay

A. In the event the City Attorney's employment is terminated by the Council at its will and pleasure during such time that the City Attorney is willing and able to perform his duties under this Agreement, then in that event the City agrees to pay the City Attorney a lump sum cash payment equal to six (6) months' aggregate salary plus any accrued leave and benefits less applicable deductions as required by agreement, law, ordinance or policy for other employees and/or the City Attorney's matching portion of benefits provided for and during said six (6) months' severance period. At City Council's option, the actual resignation date may be extended through earned and accrued leave balances due the City Attorney then in effect. Provided, however, that in the event the City Attorney is terminated "for just cause," then in such event, the City shall have no obligation to pay the aggregate severance sum designated in this paragraph. "Just cause" is defined and limited for the purposes of this Agreement to the following reasons: (1) willful neglect of duty; (2) felony or misdemeanor conviction of any crime involving moral turpitude; (3) violation of duties by the City Attorney of honesty and sobriety; (4) any other act of a similar nature of the same or greater seriousness.

B. In the event the City at any time reduces the salary or other financial benefits of the City Attorney in a greater percentage than an applicable across-the-board reduction for all City employees, then the City Attorney may at his option be deemed to be "terminated" at the date of such reduction under the terms of Section 5A, with the City Attorney being entitled to the lump sum cash payment as described.

Section 6. Disability

If the City Attorney becomes permanently disabled or is otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health for a period of six (6) successive weeks beyond any accrued leave, the City shall have the option to terminate this Agreement.

Section 7. Salary

A. City agrees to pay the City Attorney for his services rendered pursuant hereto an annual base salary of \$80,017.60, payable in installments at the same time as other City employees are paid.

B. In addition, City agrees to increase said base salary and/or other benefits of the City Attorney in such amounts and to such an extent as the City Council may determine desirable on the basis of the performance evaluation developed as required by Section 3 of this Agreement. Nothing in this paragraph shall require the City to increase the base salary or other benefits of the City Attorney.

Section 8. Hours of Work

A. The City of Oak Ridge requires the full-time service of its City Attorney and, therefore, in the event the City Attorney is not available for his duties, he shall designate an Assistant City Attorney as his representative to be responsible in his place, and so inform members of City Council when appropriate.

B. The City Attorney is leaving an active private law practice to undertake this position with the City of Oak Ridge. Both parties to this agreement recognize that it will take the City Attorney some time to close his existing practice and in that regard the parties agree that the City Attorney will have three (3) months from the effective day of this agreement to terminate all attorney-client relationships with persons and entities other than the City of Oak Ridge. During this three (3) month period, the City Attorney agrees to avoid using regular office hours to conduct business with other clients and will make every effort to close out his attorney-client relationships with all such clients as soon as possible, but in no event will he represent persons or entities other than the City of Oak Ridge after May 30, 2001 without the express consent of the City (through the City Manager).

Section 9. Communications Equipment

The City agrees to reimburse the City Attorney up to Thirty Dollars (\$30) per month to maintain a cellular or digital telephone. Except for this reimbursement, the cellular or digital telephone service shall be maintained by the City Attorney at his cost. The City shall be provided the number for this telephone to allow ease of communication with the City Attorney.

Section 10. Dues and Subscriptions

A. The City agrees to budget and pay the professional dues and subscriptions of the City Attorney for his continuance and full participation in national, regional, state and local

associations and organizations as necessary and desirable for his continued professional participation, growth and advancement, and for the good of the City.

B. The City agrees to budget and pay the Tennessee Professional Privilege Tax and Tennessee Board of Professional Responsibility fees on behalf of the City Attorney.

Section 11. Professional Development

A. The City agrees to budget and to pay the travel and subsistence expenses of the City Attorney for professional and official travel, meetings, and occasions adequate to continue the professional development of the City Attorney and to adequately pursue necessary official and other functions for the City, including but not limited to the Annual Conference of the Tennessee Bar Association, the Tennessee Municipal League, and such other national, regional, state, and local governmental groups and committees thereof which the City Attorney serves as a member.

B. The City also agrees to budget and pay for the travel and subsistence expenses of the City Attorney for short courses, institutes, and seminars that are necessary for his professional development and for the good of the City.

Section 12. Annual and Sick Leave

A. The City Attorney shall accrue annual and sick leave in the same manner as other City employees and as specified in Article 11 of the Personnel Ordinance.

B. As of the date of commencement of the term of employment, the City Attorney shall have credited to his account ten (10) days of sick leave and one hundred twenty (120) hours of annual leave. Thereafter, the City Attorney shall accrue, and have credited to his personal account annual leave and sick leave at the same rate as other employees of the City. The City Attorney shall be entitled to all leave and employee benefit programs granted to all general employees of the City.

Section 13. Health, Dental, Disability and Life Insurance Benefits

The City agrees to provide health, dental, disability, long-term care and life insurance benefits to the City Attorney and to pay the premiums thereon equal to that which is provided all other general employees of the City.

Section 14. Retirement

The City Attorney shall be immediately covered by the Tennessee Consolidated Retirement System in the same manner as is provided all other general employees of the City.

Section 15. Liability Protection

The City shall provide the same liability protection for the City Attorney as provided for all general employees of the City, as specified in Section 13.4 of the Personnel Ordinance.

Section 16. Bonding

The City agrees to bear the full cost of any fidelity or other bonds required of the City Attorney under any law, ordinance or regulation.

Section 17. Residence

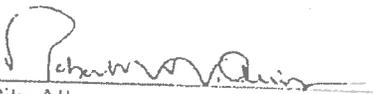
The City requires and the City Attorney agrees to maintain his principal residence inside the corporate limits of the City during the term of this Agreement, including any renewals and extensions.

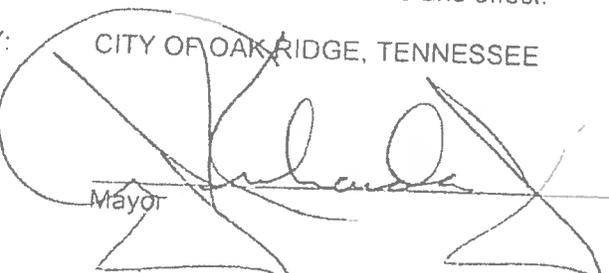
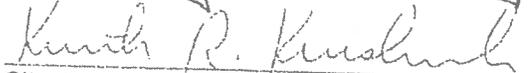
Section 18. General Provisions

A. The text herein shall constitute the entire agreement between the parties.

B. If any provisions contained in this Agreement, or portion thereof, are held to be unconstitutional, invalid, or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
City Attorney

CITY OF OAK RIDGE, TENNESSEE  
  
\_\_\_\_\_  
Mayor  
  
\_\_\_\_\_  
City Attorney

ATTEST:

  
\_\_\_\_\_  
City Clerk

**RESOLUTION**

A RESOLUTION TO AMEND THE CITY ATTORNEY'S EMPLOYMENT AGREEMENT TO EXTEND THE TERM BY ONE YEAR AND TO PROVIDE FOR AN EQUIVALENT TWO PERCENT (2%) SALARY INCREASE RETROACTIVE TO MARCH 1, 2015.

WHEREAS, Article III, Section 13, of the City Charter provides that City Council shall appoint a City Attorney; and

WHEREAS, on February 22, 2001, City Council entered into an employment agreement in which City Council agreed to employ Kenneth R. Krushenski as the City Attorney; and

WHEREAS, said employment agreement provides that formal evaluations of the City Attorney shall be conducted on an annual basis by May 30th of each year, and to this end City Council appointed a City Attorney Evaluation Committee (the Committee) to develop an evaluation procedure; and

WHEREAS, the Committee has completed its work and based upon the evaluation results recommends that the City Attorney's employment agreement be extended by one year and that he receive an equivalent two percent (2%) salary increase consistent with the raise given to all City employees.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

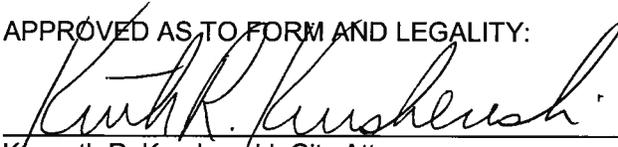
That the Employment Agreement between the City of Oak Ridge and Kenneth R. Krushenski as City Attorney is hereby amended as follows:

- Section 2, Term, Subsection C, be amended to provide that the Employment Agreement shall continue in effect until March 1, 2018; and
- Section 7, Salary, Subsection A, be amended to provide for a new base salary amount of \$111,529.60, which is the equivalent of a two percent (2%) salary increase, which shall become effective retroactive to the pay period beginning March 1, 2015.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute all necessary legal documents to accomplish the same.

This the 8th day of February 2016.

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
Kenneth R. Krushenski, City Attorney

\_\_\_\_\_  
Warren L. Gooch, Mayor

\_\_\_\_\_  
Bruce M. Applegate, Jr., Acting City Clerk

# CONSENT AGENDA

**OAK RIDGE CITY COUNCIL MEETING**  
Municipal Building Courtroom

January 11, 2016

Minutes

The regular meeting of the City Council of the City of Oak Ridge, Tennessee convened at 7:00 p.m. on January 11, 2016 in the Courtroom of the Municipal Building with Mayor Warren L. Gooch presiding.

**INVOCATION**

Ms. Aleta Ledendecker, standing in for Julie Rogoish, of the East Tennessee Rationalists

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance to the Flag of the United States of America was led by Councilmember Chuck Hope.

**ROLL CALL**

Upon roll call the following councilmembers were present: Councilmember Trina Baughn; Councilmember Kelly Callison; Councilmember Rick Chinn, Jr; Mayor Warren L. Gooch; Councilmember L. Charles Hensley; Councilmember Charles J. Hope, Jr.; Mayor Pro Tem Ellen D. Smith.

Also present were Mark S. Watson, City Manager; Janice E. McGinnis, Finance Director; Bruce Applegate, Acting City Clerk; and Kenneth R. Krushenski, City Attorney.

**Agenda Addition**

Prior to Appearance of Citizens Councilmember Baughn moved, to add a proclamation designating January 17<sup>th</sup> as Sanctity of Human Life Sunday, seconded by Councilmember Chinn. Councilmembers discussed whether the item should be added.

The agenda addition was adopted by board vote Councilmembers Baughn, Chinn, Hope, and Mayor Gooch voting "Aye", and Councilmembers Callison, Hensley, and Mayor Pro Tern Smith voting nay.

**APPEARANCE OF CITIZENS**

Mr. Martin McBride, 954 West Outer Drive, brought forth questions about the Department of Energy's (DOE) local hotel usage practices. City Manager Mark Watson provided an update on response to Senator Randy McNally's letter distributed to the DOE.

Mr. Joe Lee, 99 E. Pasadena Rd., expressed approval for the proposed new Department of Energy landfill, the benefits it would bring to the Oak Ridge community, and further stated there should be a formula or agreement with the DOE so the city can share in the financial benefits of having this work completed.

**PROCLAMATIONS AND PUBLIC RECOGNITIONS**

*A proclamation designating January 31, 2016 as Dr. Elizabeth Rona Day.*

Councilmember Chinn moved seconded by Councilmember Baughn to adopt. The proclamation was unanimously adopted by board vote Councilmembers Baughn, Callison, Chinn, Hensley, Hope, Mayor Pro Tern Smith, and Mayor Gooch voting "Aye".

*A proclamation designating January 17<sup>th</sup> as Sanctity of Human Life Sunday.*

Councilmember Baughn moved seconded by Councilmember Chinn to adopt. Councilmembers discussed the contents and meaning of the proclamation.

The proclamation was adopted by board vote Councilmembers Baughn, Callison, Chinn, Hensley, Hope, and Mayor Gooch voting "Aye", and Mayor Pro Tern Smith voting nay.

## **SPECIAL REPORTS**

*Presentation from Neil Wilson of Realty Link, Main Street Project Update.*

Ray Evans standing in for Mr. Wilson provided an update on the developments at the Oak Ridge Main Street site, and addressed questions from Council.

*Transmittal of Report on Debt Obligation presented by Janice McGinnis, Finance Director*

Ms. McGinnis provided information on results of recent bond sales for debt restructuring and answered questions from Council.

*City Manager Evaluation Committee report, by Chair Charlie Hensley*

Councilmember Hensley seconded by Mayor Gooch to approve the report and adopt the resolution. Councilmember Hensley provided the City Manager Evaluation Committee's report and answered questions from Council.

Mr. Martin McBride, 954 W. Outer, suggested that inability to get Department of Energy representatives to the table reflected poorly on the City Manager and should be grounds not to increase his pay. Councilmembers provided follow up questions to Mr. McBride.

Joseph Lee, 99 E. Pasadena Rd., commented that the City has done very well under City Manager Watson, and the business community and city as a whole are beginning to prosper.

City Council provided comments on the City Manager's performance prior to voting on the resolution.

### **A RESOLUTION TO AMEND THE CITY MANAGER'S EMPLOYMENT AGREEMENT (APPROVED BY RESOLUTION 7-73-10 AND AMENDED BY RESOLUTIONS 7-72-11, 7-61-2012, 11-103-2013 AND 10-97-2014) TO PROVIDE FOR A ONE-YEAR CONTRACT EXTENSION AND AN EQUIVALENT TWO PERCENT (2%) SALARY INCREASE RETROACTIVE TO AUGUST 2, 2015.**

The resolution was adopted by board vote Councilmembers Callison, Chinn, Hensley, Hope, Mayor Pro Tern Smith, and Mayor Gooch voting "Aye", and Councilmember Baughn voting "Nay".

## **CONSENT AGENDA**

Approval of the December 14, 2015 City Council meeting minutes. Mayor Pro Tern Smith moved, seconded by Councilmember Hope to adopt. The motion was unanimously adopted by board vote Councilmembers Baughn, Callison, Chinn, Hensley, Hope, Mayor Pro Tern Smith, and Mayor Gooch voting "Aye".

## **RESOLUTIONS**

### **A RESOLUTION AUTHORIZING PROFESSIONAL SERVICES AGREEMENTS WITH VARIOUS QUALIFIED CONSULTANTS FOR AS-NEEDED ENGINEERING SERVICES FOR THE ELECTRIC DEPARTMENT IN THE ESTIMATED AMOUNT OF \$90,000.00.**

Councilmember Hope moved, seconded by Councilmember Baughn to adopt the resolution. The City Manager provided an overview and answered questions from Council. The resolution was unanimously adopted by board vote Councilmembers Baughn, Callison, Chinn, Hensley, Hope, Mayor Pro Tern Smith, and Mayor Gooch voting "Aye".

**A RESOLUTION APPROVING THE PURCHASE OF REPLACEMENT PUMPS FOR THE WASTEWATER TREATMENT PLANT FROM ABBA PUMP PARTS AND SERVICE, BURLINGTON, ONTARIO, CANADA, IN THE ESTIMATED AMOUNT OF \$40,679.00 AND NEDROW & ASSOCIATES, INC., MURFREESBORO, TENNESSEE, IN THE ESTIMATED AMOUNT OF \$39,700.00.**

Councilmember Hope moved, seconded by Councilmember Callison to adopt the resolution. Jack Suggs, Electric Department Director, provided an overview and answered questions from Council. The resolution was unanimously adopted by board vote Councilmembers Baughn, Callison, Chinn, Hensley, Hope, Mayor Pro Tern Smith, and Mayor Gooch voting "Aye".

**A RESOLUTION APPROVING AN AGREEMENT WITH LDA ENGINEERING TO DEVELOP A POST REMEDIATION PLAN IN THE ESTIMATED AMOUNT OF \$65,000.00, AND AN AGREEMENT WITH LDA ENGINEERING FOR ENGINEERING SERVICES RELATED TO A SEWER REHABILITATION PROJECT IN THE TURTLE PARK SEWER SHED IN THE ESTIMATED AMOUNT OF \$362,500.00.**

Mayor Pro Tern Smith moved, seconded by Councilmember Callison to adopt the resolution. Jack Suggs, Electric Department Director, provided an overview and submitted a substitute resolution to amend the current resolution.

Mayor Gooch moved to amend previous resolution by replacing the third line of the original resolution with the third line from the substitute resolution, seconded by Councilmember Hope.

The motion to amend was unanimously adopted by board vote Councilmembers Baughn, Callison, Chinn, Hensley, Hope, Mayor Pro Tern Smith, and Mayor Gooch voting "Aye".

City Manager responded to Councilmembers questions regarding the bidding process for engineering firms.

The resolution was unanimously adopted by board vote Councilmembers Baughn, Callison, Chinn, Hensley, Hope, Mayor Pro Tern Smith, and Mayor Gooch voting "Aye".

**A RESOLUTION WAIVING THE COMPETITIVE BID PROCESS AND AMENDING THE CONTRACT (COR 96-01) BETWEEN THE CITY AND WASTE CONNECTIONS OF TENNESSEE, INC., TO EXTEND THE CONTRACT TERM BY FIVE YEARS FOR A NEW TERMINATION DATE OF JUNE 30, 2026.**

Mayor Pro Tern Smith moved, seconded by Councilmember Hensley to adopt the resolution. The City Manager provided an overview of the previous contracts, and the continuing contract with Waste Connections. The City Manager and Doug McGill provided information and responded to questions from Council.

Mayor Pro Tern Smith moved, seconded by Councilmember Callison to defer the resolution to the February agenda. The motion was unanimously adopted by board vote Councilmembers Baughn, Callison, Chinn, Hensley, Hope, Mayor Pro Tern Smith, and Mayor Gooch voting "Aye".

**A RESOLUTION TO ACCEPT THE REPORT OF THE JOINT CITY/SCHOOLS PRESCHOOL PLANNING COMMITTEE DATED OCTOBER 20, 2015.**

Councilmember Baughn moved, seconded by Mayor Pro Tern Smith to adopt the resolution. The City Manager and Keys Fillauer presented information and responded to questions from Council. The resolution was adopted by board vote Councilmembers Callison, Chinn, Hensley, Hope, Mayor Pro Tern Smith, and Mayor Gooch voting "Aye", and Councilmember Baughn voting "Nay".

**A RESOLUTION TO AMEND RESOLUTION 6-57-2015 REGARDING HEAVY EQUIPMENT RENTALS FOR THE PUBLIC WORKS DEPARTMENT FOR FISCAL YEAR 2016 TO ADD ADDITIONAL FUNDING FOR A NEW ESTIMATED AMOUNT OF \$110,000.00.**

Councilmember Hope moved seconded by Councilmember Callison to adopt the resolution. The resolution was adopted by board vote Councilmembers Callison, Chinn, Hensley, Hope, Mayor Pro Tern Smith, and Mayor Gooch voting "Aye", and Councilmember Baughn voting "Nay".

**PUBLIC HEARINGS AND FIRST READING OF ORDINANCES**

**FINAL ADOPTION OF ORDINANCES**

**ELECTIONS/APPOINTMENTS, ANNOUNCEMENTS AND SCHEDULING**

**Elections/Appointments**

Special meeting preceding work session next week for unfilled Board positions.

**Announcements**

Councilmember Hensley commented that additional resources should be put into Tuskegee drive disc golf course.

A previous request for update on 8<sup>th</sup> lane for rowing by councilmember Callison was addressed by city manager and additional related materials would be provided a the upcoming work session. Mayor Pro Tem Smith asked that the information brought to the work session also provide information on the effect work would have on the greenway.

Councilmember Chinn identified that the Oak Ridge Rowing Association had successfully signed an agreement to host the Southern Intercollegiate Rowing Association regatta this year.

**Scheduling**

**COUNCIL REQUESTS FOR NEW BUSINESS ITEMS OR FUTURE BRIEFINGS**

**SUMMARY OF CURRENT EVENTS**

**CITY MANAGER'S REPORT**

City Manager addressed councilmember questions on the ongoing Department of Energy water rate contract.

**CITY ATTORNEY'S REPORT**

**ADJOURNMENT: 9:03 p.m.**

**OAK RIDGE CITY COUNCIL  
SPECIAL MEETING**  
Municipal Building Courtroom

January 19, 2016 — 6:00 p.m.

Minutes

ROLL CALL

Upon roll call the following councilmembers were present: Councilmember Trina Baughn; Councilmember Kelly Callison; Councilmember Rick Chinn, Jr; Councilmember L. Charles Hensley; Councilmember Charles J. Hope, Jr.; Mayor Pro Tem Ellen D. Smith. Mayor Gooch was absent.

Also present were Mark S. Watson, City Manager; Bruce Applegate, Acting City Clerk; and Kenneth R. Krushenski, City Attorney.

ELECTIONS/APPOINTMENTS

- i. Elect one (1) applicant to the Personnel Advisory Board.

*Bonnie Hebert was elected on first ballot.*

- ii. Elect two (2) applicants to the Traffic Safety Advisory Board.

*Halfen Hoyt and Ilona Kaczocha were elected on first ballot.*

- iii. Elect two (2) applicants to the Secret City Festival 501 (c)(3) Board of Directors.

*Councilmember Chinn moved to elect Andrew L. Howe and Jeffrey M. Thurston by acclamation seconded by Councilmember Baughn. The motion was approved unanimously with Councilmembers, Baughn, Callison, Chinn, Hensley, Hope, and Mayor Pro Tem Smith voting "Aye".*

ADJOURNMENT: 6:12 p.m.

**PUBIC WORKS DEPARTMENT MEMORANDUM**  
**16-02**

**DATE:** January 19, 2016  
**TO:** Mark S. Watson, City Manager  
**THROUGH:** Jack L. Suggs, Interim Public Works Director  
**FROM:** Susan Fallon, Administrative Manager  
**SUBJECT: REFURBISH OF SEWER VACUUM TRUCK (EQUIPMENT #312)**

Introduction

An item for City Council consideration is a resolution for the refurbishing of the sewer vacuum truck, equipment #312, by Ingram Equipment Company, LLC of Pelham, AL, for the Public Works Department in the estimated amount of \$80,000.

Funding

The funding for the refurbishment is available in the FY2016 Waterworks Fund budget.

Analysis

The VacCon vacuum truck (equipment #312) was purchased in 2001 by the City for the Public Works Department. The truck is a vital part of the operations of the sewer division; utilized for cleaning sewer lines according to the MOM program, cleaning sewer backups and cleaning pump station wet wells.

The estimated purchase price of a new vacuum truck is \$400,000. The chassis of the truck was inspected by City Equipment Shop personnel and was determined to be in good working order. It is expected to have five to seven years of remaining serviceable life. Staff contacted VacCon to inquire of a certified company that could refurbish the equipment on the truck to coincide with the expected life for the chassis. VacCon referred Ingram Equipment Company, LLC who, when contacted, sent a representative to Oak Ridge and, along with City personnel, inspected the vacuum and jetting equipment on the truck and discussed what required replacement.

The refurbishment of the vacuum truck will include the following parts and related labor:

- New lubrication stickers
- Seal kits for the body and boom
- New boom tube sections
- Rear door plate
- New sections of kanaflex hose with clamps
- Water pump suction strainer assembly
- Hydraulic tank suction strainer
- VacCon filter kit
- New hydraulic fluid
- Belt kit for hydraulic and water pump
- Water pump rebuild kit (if applicable)
- Smart controls wireless control upgrade kit
- Hose reel pivot pin and bushings
- Rotary union
- Boom elbow assembly
- Water pump suction hose
- New water pump drain and check valves
- Throttle cable upgrade kit
- HP relief valve and handgun relief valve
- Tank debris weldment
- Paint body and front hose reel

Included in the base price of the refurbishment is the added equipment of a folding spray bar for washing down streets to remove mud and debris after water main breaks. The quoted amount from Ingram Equipment Company, LLC for the refurbishing of the truck and the addition of the folding spray bar is \$57,234.00. Staff is recommending an award of the estimated amount of \$80,000 to provide a contingency for a new water pump (\$10,145) if the existing one cannot be repaired, as well as any other unforeseen repairs discovered during the refurbishing process.

Recommendation

Sealed bids were received with award of the bid based on the only bid received for the refurbishment of the vacuum truck (equipment #312). Ingram Equipment Company, LLC is certified by the manufacturer of the truck, VacCon to complete refurbishing of this type of equipment. Staff recommends approval of the resolution as submitted.



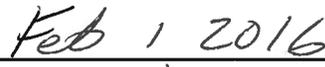
Susan Fallon

**City Manager's Comments:**

I have reviewed the above issue and recommend Council action as outlined in this document.



Mark S. Watson



Date

**CITY OF OAK RIDGE, TENNESSEE  
Abstract of Bids**

RFQ #146256

OPENING DATE: December 10, 2015 11:00 A.M.

FOR --- Refurbish VAC-Con Truck			BIDDER: Ingram Equipment Company, LLC 11 Monroe Drive Pelham, AL 35124		BIDDER:		BIDDER:		BIDDER:		
DESCRIPTION	ITEM	QUANTITY	UNIT COST	TOTAL	UNIT COST	TOTAL	UNIT COST	TOTAL	UNIT COST	TOTAL	
THE REFURBISHING OF VAC-CON TRUCK MODEL 390/1000 LH-A PER THE SPECIFICATIONS PROVIDED BY THE CITY OF OAK RIDGE	1	1		\$ 57,233.96							
Contingency Items:											
New Water Pump				\$ 10,144.54							
Other Items				\$ 12,621.50							
<b>TOTAL PRICE</b>				\$ 80,000.00		\$ -		\$ -		\$ -	
<b>TERMS</b>			Due Upon Receipt of Invoice								
<b>DELIVERY</b>			Approx. 6-8 Weeks								
<b>F.O.B.</b>			Oak Ridge								
<b>VIA</b>			Ingram								
OTHER BIDDERS CONTACTED: Jet-Vac Sewer Equipment Company, LLC - Sumter, SC							BIDS OPENED AND RECORDED BY--- <i>Lyn Majeski</i> Lyn Majeski Accounting Division Manager				
REASON FOR AWARD:			RECOMMEND AWARD BE MADE TO:				BIDS REVIEWED BY---				
ONLY BID RECEIVED <input checked="" type="checkbox"/> X LOW PRICE <input type="checkbox"/> BETTER OR REQUIRED DESIGN <input type="checkbox"/> EARLY DELIVERY <input type="checkbox"/> LOWEST TOTAL COST <input type="checkbox"/>			Ingram Equipment Company, LLC 11 Monroe Drive Pelham, AL 35124				<i>Janice McGinnis</i> Janice McGinnis Finance Director				

# BID PROCESS FORM



**BID NAME** RFQ 146256 **DESCRIPTION** Refurbishing of Vac-Con Truck

**CITY COUNCIL MEETING** February 8, 2016

## BIDDERS CONTACTED ( CONTACT INFORMATION)

<u>Company</u>	<u>Name</u>	<u>Address</u>	<u>City, State ZIP</u>	<u>Phone</u>	<u>Email</u>	<u>Contacted Via</u>
Ingram Equipment Company	Wil Hovater J Martin	11 Monroe Drive	Pelham, Al 35124	(205) 663-3946	wilhovater@gmail.com jmartin@ingramequipment.net	[e-mail] [e-mail]

## BIDS RECEIVED FROM BIDDERS CONTACTED DIRECTLY BY THE CITY

Ingram Equipment Company

## REQUESTED COPY OF BID INVITATION NOT INITIALLY CONTACTED BY THE CITY

(e.g., City's Website, Vendor Registry, Planrooms, Word of Mouth)

Jet-Vac Sewer Equipment Company, LLC	Keith Windham	5746 Broad Street	Sumter, SC 29154	(803) 494-4430	kwindham@jet-vac.com	[e-mail]
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## ADVERTISEMENT

The City of Oak Ridge advertised this bid on the Finance Department's Departmental Webpage for a duration of 10 days.

**RESOLUTION**

A RESOLUTION AWARDING A CONTRACT TO INGRAM EQUIPMENT COMPANY, LLC, PELHAM, ALABAMA, TO REFURBISH THE VAC-CON SEWER VACUUM TRUCK FOR THE PUBLIC WORKS DEPARTMENT IN THE ESTIMATED AMOUNT OF \$80,000.00.

WHEREAS, the Vac-Con sewer vacuum truck, which is used for cleaning sewer lines and backups as well as pump station wet wells, is in need of refurbishment; and

WHEREAS, in addition to refurbishment, the City would like to add a folding spray bar for washing down streets to remove mud and debris after water main breaks; and

WHEREAS, bids were received and publicly opened on December 10, 2015, with Ingram Equipment Company, LLC, Pelham, Alabama, submitting the sole bid, which bid the City Manager recommends be accepted; and

WHEREAS, additional funds over the bid amount are requested to account for replacement of the water pump if it cannot be repaired, as well as other unforeseen repairs that may be discovered during the refurbishment process.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

That the recommendation of the City Manager is approved and award is hereby made to Ingram Equipment Company, LLC, 11 Monroe Drive, Pelham, Alabama 35124, for the refurbishment of the sewer vacuum truck and the addition of a folding spray bar plus contingencies; said award in strict accordance with Requisition No. 146256, the required specifications, and the bid as publicly opened on December 10, 2015, and in the estimated amount of \$80,000.00.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute the appropriate legal instruments to accomplish the same.

This the 8th day of February 2016.

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
Kenneth R. Krushenski, City Attorney

\_\_\_\_\_  
Warren L. Gooch, Mayor

\_\_\_\_\_  
Bruce M. Applegate, Jr., Acting City Clerk

**FINANCE DEPARTMENT MEMORANDUM**

**16-03**

**DATE:** January 26, 2016  
**TO:** Mark S. Watson, City Manager  
**FROM:** Janice E. McGinnis, Finance Director  
**SUBJECT:** TAX EQUIVALENTS

Introduction

An item for City Council's consideration is a resolution that authorizes tax equivalent payments from the Electric Fund to the General Fund and to Anderson and Roane Counties and a tax equivalent payment from the Waterworks Fund to the General Fund.

Funding

Funding is budgeted and will be provided by the Electric and Waterworks Fund.

Review

Tennessee Code Annotated (TCA) authorizes and establishes guidelines for municipal operated utility systems to pay tax equivalent payments to the General Fund of the municipality. Basically, this is an in-lieu of property tax payment paid by the City's utility systems. This is comparable to the property taxes that a private business that provided a similar service would be required to pay the City.

The City Electric Fund's tax equivalent payment is calculated utilizing guidelines set forth in Sections 7-52-301 and 7-52-307 of the TCA and Section 2 – Terms and Conditions, Revision 1987, of the TVA contract. The tax equivalent is calculated utilizing the net asset value of the Electric System's physical plant (i.e. electric lines, land, traffic signals, street lights, vehicles and substations) on a cost basis and a three-year average of the system's operating revenues, excluding purchased power. The net asset value of the system's property is \$47,240,055 in the Anderson County portion of the City and \$7,359,074 in the Roane County portion of the City. Based on the calculations specified in Section 2 of the TVA contract, the tax equivalent payment from the Electric Fund for fiscal 2016 is \$2,095,669.06.

State law requires City Council to annually approve the amount of the Electric Fund's tax equivalent payments and to allocate 77.5% of the total tax equivalent to the City's General Fund, with the remaining 22.5% allocated to the county taxing jurisdictions. Computations in accordance with these formulas result in the following Electric Fund tax equivalent payments as follows:

Portion to Oak Ridge General Fund (77.5%)	\$1,624,143.52
Portion to Counties (22.5%)	
distributed based on plant value:	
Anderson County	407,971.57
Roane County	<u>63,553.97</u>
Total Electric Fund Tax Equivalent	<u>\$2,095,669.06</u>

The Waterworks Fund disburses tax equivalent payments to the City's General Fund under authorization of TCA 7-34-115. The code provides for a maximum tax equivalent payment to the General Fund not to exceed the amount of taxes payable on privately owned property of a similar nature. The tax equivalent payment can be established at any level below that maximum amount. There is no provision for the Waterworks Fund's tax equivalent payment to be shared with the counties. Tennessee code does require City Council to annually approve the Waterworks Fund tax equivalent payment. This calculation is based on the net book value of waterworks fixed assets at the public utility assessment ratio of 55%, which equates to the assessed value, at the City's equalized property tax rate per \$100 of assessed value. The amount of the tax equivalent payment will fluctuate each year based on the value of new assets added versus depreciation and changes in the appraisal ratio. The appraisal ratio is currently 100%. The amount of tax equivalent on the waterworks system comparable to that of a private enterprise for fiscal 2016 is \$1,504,660.24.

TCA 7-34-115 also provides for an equity investment charge payable to the General Fund from the waterworks system at a 6% per annum rate. The General Fund's initial investment in the Waterworks system at the 6% rate equates to an annual payment of \$250,445.25

The Waterworks Fund's payment to the General Fund would be \$1,755,105.49, which is the total of these two charges.

Recommendation

Adoption of the attached resolution is recommended reflecting the tax equivalent payment as provided for under State law.

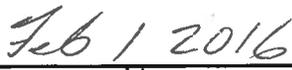
Attachment(s)

  
Janice McGinnis

**City Manager's Comments:**

I have reviewed the above issue and recommend Council action as outlined in this document.

  
Mark S. Watson

  
Date

**RESOLUTION**

A RESOLUTION AUTHORIZING THE TRANSFER OF TAX EQUIVALENTS FROM THE ELECTRIC AND WATERWORKS FUNDS TO THE GENERAL FUND FOR THE FISCAL YEAR ENDING JUNE 30, 2016, AND TO AUTHORIZE ITS DISTRIBUTION BETWEEN THE CITY OF OAK RIDGE AND ANDERSON AND ROANE COUNTIES IN ACCORDANCE BY STATE LAW.

WHEREAS, Chapter 237 of the Public Acts of 1969 (Tennessee Code Annotated §7-52-301, §7-52-307, and §7-34-115) provides for the transfer of tax equivalents from the Electric Fund and the Waterworks Fund to the General Fund of the owning municipality; and

WHEREAS, said law further provides that the governing body of the municipality shall determine the amounts to be transferred for each fiscal year to the municipality's General Fund, not to exceed specified limits; and

WHEREAS, the City Council of the City of Oak Ridge now desires to establish such payment for the fiscal year ending June 30, 2016, and accordingly authorize its distribution between the City and Anderson and Roane Counties, in accordance with State law.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

That the City of Oak Ridge, Tennessee pay from its Electric Fund and its Waterworks Fund to the General Fund and that such funds then be distributed to the respective taxing jurisdictions, in accordance with Chapter 237 of the Public Acts of 1969, in the estimated amounts shown below:

<u>Electric Fund</u>	
City of Oak Ridge	\$1,624,143.52
Anderson County	407,971.57
Roane County	63,553.97
 <u>Waterworks Fund</u>	
City of Oak Ridge	\$1,755,105.49

This the 8th day of February 2016.

APPROVED AS TO FORM AND LEGALITY:

  
 \_\_\_\_\_  
 Kenneth R. Krushenski, City Attorney

\_\_\_\_\_  
 Warren L. Goch, Mayor

\_\_\_\_\_  
 Bruce M. Applegate, Jr., Acting City Clerk

# RESOLUTIONS

**FINANCE DEPARTMENT MEMORANDUM**

**16-04**

**DATE:** January 26, 2016  
**TO:** Mark S. Watson, City Manager  
**FROM:** Janice E. McGinnis, Finance Director  
**SUBJECT:** INTENT TO REIMBURSE PRESCHOOL CAPITAL EXPENDITURES

Introduction

An item for City Council's consideration is an intent to reimburse resolution which allows the City to reimburse itself up to \$500,000 from the proceeds of a future debt issuance for expenditures that may occur such as those related to site selection and architectural/engineering fees for the construction of a new Preschool.

Funding

Funding for the design and construction of a new Preschool will be funded through the issuance of debt.

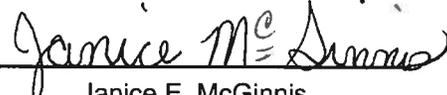
Consideration

The adoption of the resolution provides assurance that initial costs that the City incurs for expenditures related to the construction of a new Preschool can be reimbursed back to the City from the proceeds of a subsequent debt issuance.

Recommendation

Staff recommends approval of the attached resolution.

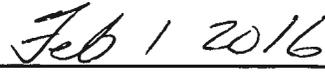
Attachment

  
Janice E. McGinnis

**City Manager's Comments:**

I have reviewed the above issue and recommend Council action as outlined in this document.

  
Mark S. Watson

  
Date

**RESOLUTION**

A RESOLUTION INDICATING THE INTENT OF CITY OF OAK RIDGE, TENNESSEE, TO ISSUE ITS BONDS OR OTHER OBLIGATION OF INDEBTEDNESS TO FINANCE THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF SCHOOL FACILITIES FOR USE AS A PRE-KINDERGARTEN.

WHEREAS, the City Council of the City of Oak Ridge, Tennessee (the "City") has determined that it is necessary and advisable for the City to acquire, construct and equip certain school facilities for use as a pre-kindergarten; and

WHEREAS, the City expects to incur certain expenses in connection with the acquisition, construction and equipping of such public works projects; and

WHEREAS, the City Council of the City desires to state its intentions with respect to the reimbursement of such expenditures in accordance with the requirements of the regulations applicable thereto promulgated by the United States Department of Treasury.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

Section 1. The City hereby states that it reasonably expects to reimburse itself for certain expenditures to be made by the City in connection with the acquisition, construction and equipping of certain school facilities for use as a pre-kindergarten (the "Public Improvement Project").

Section 2. The maximum principal amount of bonds or other indebtedness expected to be issued for the purpose of reimbursing the City for expenditures in connection with the Public Improvements Project is \$500,000.00. The bonds or other indebtedness expected to be issued to finance the Public Improvements Project are expected to be general obligations of the City.

Section 3. This resolution shall be placed in the minutes of the City Council and shall be made available for inspection by the general public.

Section 4. The City's statement of intent in this resolution to reimburse itself for the expenditures described herein is consistent with the budgetary and financial circumstances of the City as of the date of this resolution.

Section 5. This resolution constitutes a declaration of official intent under Treas. Reg. § 1.150-2.

Section 6. The adoption of this resolution shall not in any event require the City to carry out any public works project referenced herein. Any notes or other indebtedness of the City to be issued to finance any of the public works projects referenced herein shall only be issued after compliance by the City with all requirements of law.

Section 7. This resolution shall take effect immediately.

This the 8th day of February 2016.

APPROVED AS TO FORM AND LEGALITY:



Kenneth R. Krushenski, City Attorney

Warren L. Gooch, Mayor

Bruce M. Applegate, Jr., Acting City Clerk

**PUBLIC HEARINGS  
AND  
FIRST READING OF  
ORDINANCES**

**PUBLIC WORKS DEPARTMENT MEMORANDUM**  
**16-03**

**DATE:** January 25, 2016  
**TO:** Mark S. Watson, City Manager  
**THROUGH:** Jack L. Suggs, Interim Public Works Director  
**FROM:** Pat Fallon, Division Manager  
**SUBJECT: STORMWATER ORDINANCE**

Introduction

An item for City Council consideration is an ordinance replacing the City's current Erosion Control and Stormwater Management provisions (City Code Title 14, Chapter 5) with an updated version designed to bring the City of Oak Ridge (City) into compliance with the State of Tennessee, Department of Environment and Conservation (TDEC), Municipal Separate Storm Sewer System (MS4) program as required by the Phase II MS4 (Permit number TNS088366) Notice of Coverage issued March 23, 2014.

Funding

Approval of the ordinance does not require funding. At a future date, funding will be required to complete the activities required by the ordinance.

Background

As a Phase II MS4 community, the City is charged with reducing the discharge of stormwater pollutants to the maximum extent practicable, to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act, regulated by the Environmental Protection Agency (EPA). In order to meet the requirements, EPA has defined six (6) minimum control measures (MCMs) that are listed below to be addressed and will satisfy a portion of the City Phase II MS4 Permit requirements.

- Public Education and Outreach
- Public Involvement/Participation
- Illicit Discharge Detection and Elimination
- Construction Site Stormwater Runoff Control
- Post-Construction Stormwater Management in New Development and Redevelopment
- Pollution Prevention / Good Housekeeping

The new ordinance will bring the City into compliance with the TDEC permit requirements for a Phase II MS4 community and will be an enhancement over the previous ordinance by including stormwater quality, construction waste control, pollution prevention, good municipal housekeeping and MS4 enforcement authority.

Recommendation

Staff recommends adoption of the ordinance as submitted.



Pat Fallon

**City Manager's Comments:**

I have reviewed the above issue and recommend Council action as outlined in this document.

  
Mark S. Watson

  
Date

TITLE

AN ORDINANCE TO AMEND TITLE 14, TITLED "ZONING AND LAND USE CONTROL," OF THE CODE OF ORDINANCES, CITY OF OAK RIDGE, TENNESSEE, BY DELETING CHAPTER 5, TITLED "EROSION CONTROL AND STORMWATER MANAGEMENT," IN ITS ENTIRETY AND SUBSTITUTING THEREFOR A NEW CHAPTER 5, TITLED "STORMWATER MANAGEMENT," FOR THE PURPOSE OF COMPLIANCE WITH THE STATE OF TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION (TDEC) MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PROGRAM.

WHEREAS, City Code Title 14, Chapter 5, contains provisions pertaining to erosion control and stormwater management; and

WHEREAS, the provisions are in need of updating for compliance with the State of Tennessee Department of Environment and Conservation (TDEC) Municipal Separate Storm Sewer System (MS4) Program; and

WHEREAS, as a Phase II MS4 community, the City is charged with reducing the discharge of stormwater pollutants, protecting water quality, and satisfying the appropriate water quality requirements of the Clean Water Act.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

Section 1. Title 14, titled "Zoning and Land Use Control," of the Code of Ordinances, City of Oak Ridge, Tennessee, is hereby amended by deleting Chapter 5, titled "Erosion Control and Stormwater Management," in its entirety and substituting therefor a new Chapter 5, titled "Stormwater Management," which new chapter shall read as follows:

Section 14-501. General provisions.

- (1) Purpose. It is the purpose of this chapter to:
  - (a) Protect, maintain, and enhance the environment of the City 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;
  - (b) Enable the City to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR 122.26 for stormwater discharges; and
  - (c) Allow the City to exercise the powers granted in Tennessee Code Annotated §68-221-1105, which provides that, among other powers cities 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 City, whether or not owned and operated by the City;
    - (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 contaminants 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; and
  - (viii) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private.
- (2) Administering Entity. The City Manager or the City Manager's designee shall administer the provisions of this chapter.
- (3) Stormwater Management Ordinance. The intended purpose of this ordinance is to safeguard property and public welfare by regulating stormwater drainage and requiring temporary and permanent provisions for its control. It should be used as a planning and engineering implement to facilitate the necessary control of stormwater.

Section 14-502. 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) "Administrative or Civil Penalties." Under the authority provided in Tennessee Code Annotated §68-221-1106, the City declares that any person violating the provisions of this chapter may be assessed a civil penalty by the City of not less than fifty dollars (\$50.00) and not more than five-thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.
- (2) "As built plans" means drawings depicting conditions as they were actually constructed.
- (3) "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 or leaks, sludge or waste disposal, or drainage from raw material storage.
- (4) "Borrow Pit" is an excavation from which erodible material (typically soil) is removed to be fill for another site. There is no processing or separation of erodible material conducted at the site. Given the nature of activity and pollutants present at such excavation, a borrow pit is considered a construction activity for the purpose of this permit.

- (5) "Buffer Zone" means a strip of dense undisturbed perennial native vegetation, either original or reestablished, that borders streams, rivers, ponds, lakes wetlands, etc. Buffer zones are established for the purpose of slowing water runoff, enhancing water infiltration, and minimizing the risk of any potential nutrients or pollutants from leaving the upland area and reaching surface waters. Buffer zones are primarily established for the primary purpose of protection water quality and maintaining a healthy aquatic ecosystem in receiving waters.
- (6) "Channel" means a natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.
- (7) "City" means the City of Oak Ridge, Tennessee.
- (8) "City Manager" means the City Manager of Oak Ridge who has the authority to delegate to designated staff, which includes, but is not limited to, staff engineers and stormwater inspectors.
- (9) "Clearing" typically refers to the removal of vegetation and disturbance of soil prior to grading or excavation in anticipation of construction activities. Clearing may also cover a wide variety of uses, many of which may not be regulated with the scope of stormwater management.
- (10) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.
- (11) "Design storm event" means a hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a stormwater facility.
- (12) "Discharge" means dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the municipal separate storm sewer system.
- (13) "Easement" means an acquired privilege or right of use or enjoyment that a person, party, firm, corporation, city or other legal entity has in the land of another.
- (14) "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 human activities or effects.
- (15) "Erosion prevention and sediment control plan" (EPSCP) means a written plan (including drawings or other graphic representations) that is designed to minimize the erosion and sediment runoff at a site during construction activities.
- (16) "Hotspot" means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. Hotspots include, but are not limited to: garages, repair shops, junk yards, detailing shops, car wash waste water, restaurants (where grease traps are maintained), commercial properties with large paved parking areas, factories, retail facilities, manufacturing plants, storage lots, maintenance areas, sanitary wastes water, effluent from septic tanks and alternate sewer systems, carpet cleaning waste water, laundry waste water/gray water, and household toxics.

- (17) "Illicit connections" means illegal and/or unauthorized connections to the municipal separate stormwater system whether or not such connections result in discharges into that system.
- (18) "Illicit discharge" means any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under Section 14-507(2).
- (19) "Improved sinkhole" is a natural surface depression that has been altered in order to direct fluids into the hole opening. Improved sinkhole is a type of injection well regulated under TDEC's Underground Injection Control (UIC) program. Underground injection constitutes an intentional disposal of waste waters in natural depressions, open fractures, and crevices (such as those commonly associated with weathering of limestone).
- (20) "Inspector" An inspector is a person that has successfully completed (has a valid certification from) the "Fundamentals of Erosion Prevention and Sediment Control Level I" course or equivalent 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:
- (a) Oversee the requirements of other construction-related permits, such as Aquatic Resources Alteration Permit (ARAP) or Corps of Engineers permit for construction activities in or around waters of the state;
  - (b) Update field stormwater pollution prevention plan (SWPPP);
  - (c) Conduct pre-construction inspection to verify that undisturbed areas have been properly marked and initial measures have been installed; and
  - (d) Inform the permit holder of activities that may be necessary to gain or remain in compliance with the Construction General Permit (CGP) and other environmental permits.
- (21) "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, and excavation.
- (22) "Maintenance" means any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater facility.
- (23) "Maintenance agreement" means a document recorded in the land records that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.
- (24) "Municipal separate storm sewer system" (MS4) means the conveyances owned or operated by the City for the collection and transportation of stormwater, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains, and where the context indicates, it means the municipality that owns the separate storm sewer system.

- (25) "National Pollutant Discharge Elimination System Permit" or a "NPDES permit" means a permit issued pursuant to 33 U.S.C. 1342.
- (26) "Off-site facility" means a structural BMP located outside the subject property boundary described in the permit application for land development activity.
- (27) "Peak flow" means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.
- (28) "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.
- (29) "Priority Construction Activity" means any construction activities discharging directly into or immediately upstream of waters of the state recognizes as impaired (for siltation or habitat alteration) or Exceptional Tennessee Waters.
- (30) "Planning Commission" means the City of Oak Ridge Municipal Planning Commission.
- (31) "Runoff" means that portion of the precipitation on a drainage area that is discharged from the area into the municipal separate storm sewer system.
- (32) "Sediment" means solid material, both inorganic and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.
- (33) "Sedimentation" means soil particles suspended in stormwater that can settle in stream beds.
- (34) "Soils Report" means a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees conducting the investigation.
- (35) "Stabilization" means providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.
- (36) "Stormwater" means stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.
- (37) "Stormwater entity" means the entity designated by the City to administer the stormwater management ordinance, and other stormwater rules and regulations adopted by the City.
- (38) "Stormwater management" means the programs to maintain quality and quantity of stormwater runoff to pre-development levels.
- (39) "Stormwater management facilities" means the drainage structures, conduits, ponds, ditches, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed of.
- (40) "Stormwater management plan" means the set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMPs, concepts and techniques intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels.

- (41) "Stormwater pollution prevention plan" (SWPPP) means a written plan that includes site map(s), an identification of construction/contractor activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants. It must be prepared and approved before construction begins. In order to effectively reduce erosion and sedimentation impacts, Best Management Practices (BMPs) must be designed, installed, and maintained during land disturbing activities. The SWPPP should be prepared in accordance with the current *Tennessee Erosion and Sediment Control Handbook*. The handbook is intended for use during the design and construction of projects that require erosion and sediment controls to protect waters of the state. It also aids in the development of SWPPPs and other reports, plans, or specifications required when participating in Tennessee's water quality regulations. All SWPPPs shall be prepared and updated in accordance with Section 3 of the General NPDES Permit for Discharges of Stormwater Associated with Construction Activities.
- (42) "Stormwater runoff" means flow on the surface of the ground, resulting from precipitation.
- (43) "Stream" means a surface water that is not a wet weather conveyance as defined herein.
- (44) "Structural BMPs" means facilities that are constructed to provide control of stormwater runoff.
- (45) "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.
- (46) "TDEC manuals" means the current *Sediment and Erosion Control and Post Construction* manuals approved by the State of Tennessee Department of Environment and Conservation (TDEC) for stormwater system design and installation.
- (47) "Turbidity" means the cloudiness or haziness of a fluid caused by individual particles (suspended solids) that are generally invisible to the naked eye, similar to smoke in air.
- (48) "Waste site" means an area where waste material from a construction site is deposited. When the material is erodible, such as soil, the site must be treated as a construction site.
- (49) "Water Quality Buffer" see "Buffer".
- (50) "Watercourse" means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.
- (51) "Watershed" means all the land area that contributes runoff to a particular point along a waterway.
- (52) "Waters" or "waters of the State" 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.
- (53) "Wetland(s)" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted to life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs, and similar areas.

- (54) "Wet weather conveyances" are man-made or natural watercourses, including natural watercourses that have been modified by channelization, that flow only in direct response to precipitation runoff in their immediate locality and whose channels are above the groundwater table and are not suitable for drinking water supplies; and in which hydrological and biological analyses indicate that, under normal weather conditions, due to naturally occurring ephemeral or low flow, there is not sufficient water to support fish or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two months. (Rules and Regulations of the State of Tennessee, Chapter 1200-4-3-.04(3)).

Section 14-503. Land disturbance permits.

(1) When required.

- (a) Every person will be required to obtain a land disturbance permit from the City Manager or the City Manager's designee in the following cases:
- (i) Land disturbing activity that disturbs one (1) or more acres of land;
  - (ii) Land disturbing activity of less than one (1) acre of land if such activity is part of a larger common plan of development that affects one or more acre of land;
  - (iii) Land disturbing activity of less than one (1) acre of land, as provided below, or if in the discretion of the City Manager or the City Manager's designee such activity poses a unique threat to water, or public health or safety. Projects or developments of less than one (1) acre of total land disturbance may also be required to obtain authorization under this permit if:
    - (a) The City Manager or the City Manager's designee has determined that the stormwater discharge from a site is causing, contributing to or is likely to contribute to a violation of a state water quality violation.
    - (b) The City Manager or the City Manager's designee has determined that a stormwater discharge is, or is likely to be a significant contributor of pollutants to waters of the state.
    - (c) Changes in state or federal rules require sites of less than one (1) acre that are not part of a larger common plan of development or sale to obtain a stormwater permit.
    - (d) Any new development or redevelopment, regardless of size, that is defined by the City Manager or the City Manager's designee to be a hot spot land use.
  - (iv) The creation and use of borrow pits where material is excavated and relocated offsite, and fill sites where materials or earth is deposited by mechanized methods resulting in an increase elevation or grade.
  - (v) Land disturbance for single or duplex residential lots of any size are required to obtain a land disturbance permit. As determined by the City Manager or the City Manager's designee, lots that have karst features, adjoining lakes or streams, slopes exceeding fifteen percent (15%), floodplains or streams to cross are required to submit an erosion control

and stormwater management plan. Depending on site specific conditions the requirement that the plan be developed by a qualified licensed professional engineer or architect may be waived by the City Manager or the City Manager's designee. Minimal plan requirements shall include pre- and post-stormwater runoff directions, construction access, erosion/sediment control measures, roof downspout direction and termination, swales and temporary and/or permanent soil stabilization.

- (vi) Land disturbance activities in a City Floodway Zoning Districts require a permit and shall provide evidence of obtaining appropriate licenses/permits that may be required by federal or state laws and regulations, or written waiver from such permits and licenses prior to the issuance of a land disturbance permit by the City Manager or the City Manager's designee.
  - (vii) If the City Manager or the City Manager's designee determines that construction activity is ongoing, but is not permitted, the City Manager or the City Manager's designee must notify TDEC of this situation by supplying the following information to the Knoxville Environmental Field Office:
    - (a) Construction project or industrial facility location.
    - (b) Name of the operator or owner.
    - (c) Estimated construction project or size or type industrial activity (including the Standard Industrial Classification (SIC) code, if known).
    - (d) Records of communications with the owner or operator.
- (2) Existing Areas with Soil Erosion Problems. Upon written notification from the City Manager or the City Manager's designee, the owner of any parcel of land which exhibits unstable or eroding soil conditions and impacts downstream properties or any stream shall correct the problem within a sixty (60) calendar day period. Upon written request to the City Manager or the City Manager's designee, the period for construction may be extended upon request if seasonal conditions warrant and temporary control measures are installed. Slopes which are found to be eroding excessively shall be provided stabilizing measures until the problem is corrected. Minimum corrective measures may include stabilizing slopes and revegetating all exposed soil surfaces. Before commencing corrective measures, the owner shall consult with the City Manager or the City Manager's designee to determine an acceptable method of correction. A plan for soil erosion control shall be submitted to the City Manager or the City Manager's designee for final review and approval prior to initiation of corrective measures.
- (3) Building Permit. No building permit shall be issued until the applicant has obtained a land disturbance permit where the same is required by this ordinance.
- (4) Exemptions. The following activities are exempt from the permit requirement:
- (a) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
  - (b) Any installation, maintenance or repair of any underground public utility provided that all erosion control and stormwater management requirements of this ordinance are met.

- (c) Existing nursery and agricultural operations conducted as a permitted main or accessory use.
  - (d) Any logging or agricultural activity that is consistent with an approved farm conservation plan or a timber management plan prepared or approved by the appropriate federal or state agency.
  - (e) The owner or developer whose land disturbing activity has been exempted from requirements for registration shall nevertheless be responsible for otherwise conducting such activity in accordance with the provisions of this ordinance and other applicable laws including responsibility for controlling erosions and sedimentation.
  - (f) Any construction of foundation drains, french drains, extension of roof drains and minor building additions if not otherwise required in this section and unless the possibility of erosion, stream siltation or impact to downstream properties is such to necessitate a permit as determined by the City Manager or the City Manager's designee.
  - (g) Any home gardens, home landscaping, or land preparation unless the possibility of erosion or stream siltation is such to necessitate a permit as determined by the City Manager or the City Manager's designee.
- (5) Limitations. The City Manager or the City Manager's designee shall not grant land disturbance coverage for discharges into waters that are designated by the Water Quality Control Board as "Outstanding National Resource Waters" (ONRW). An individual permit is required for land disturbance activities and is available from TDEC.
- (6) Application for a Land Disturbance Permit. Each application shall include the following:
- (a) Name of applicant;
  - (b) Business or residence address of applicant;
  - (c) Name, address and telephone number of the owner of the property of record in the office of the assessor of property;
  - (d) Address and legal description of subject property including the tax reference number and parcel number of the subject property;
  - (e) Name, address and telephone number of the contractor and any subcontractor(s) who shall perform the land disturbing activity and who shall implement the erosion and sediment control plan;
  - (f) A statement indicating the nature, extent and purpose of the land disturbing activity including the size of the area for which the permit shall be applicable and a schedule for the starting and completion dates of the land disturbing activity;
  - (g) Where the property includes a sinkhole, the applicant shall obtain appropriate permits from the TDEC;
  - (h) The applicant shall obtain from any other state or federal agency any other appropriate environmental permits that pertain to the property. If Aquatic Resource Alteration Permits (ARAP) are required for a site in areas proposed for active construction, the Notice of Coverage (NOC) will not be issued until ARAP

application(s) are submitted and deemed by TDEC to be complete. The treatment and disposal of wastewater (including, but not limited to sanitary wastewater) generated during and after the construction must also be addressed. The issuance of the Notice of Coverage (NOC) may be delayed until adequate wastewater treatment and accompanying permits are issued. The inclusion of any such permits in the application shall not prevent the City from imposing additional development requirements and regulations of the City on the development of property covered by those permits; however, the inclusion of those permits in the application shall not prevent the City Manager or the City Manager's designee from imposing additional development requirements and conditions, commensurate with this ordinance, on the development of property covered by those permits; and

- (i) Each application shall be accompanied by:
  - (i) A commercial or residential land disturbance permit application.
  - (ii) A sediment and erosion control plan that meets the criteria set forth by this ordinance and/or the City Manager or the City Manager's designee. Single family or duplex residential land disturbance of less than one acre is exempt from submission of the sediment and erosion control plan unless otherwise required in this ordinance.
  - (iii) A stormwater management plan approved by the City Manager or the City Manager's designee.
  - (iv) Each application for a land disturbance permit shall be accompanied by payment of land disturbance permit and other stormwater management fees, which shall be set by the City Manager or the City Manager's designee as provided for under City Code §1-203. No permit or amendment to a permit shall be valid until such fees have been paid.

(7) Review and Approval of Application.

- (a) The City Manager or the City Manager's designee, within a reasonable amount of time after receipt, will review each application for a land disturbance permit to determine its conformance with the provisions of this ordinance. After the review of an application, the City Manager or the City Manager's designee shall provide one of the following responses:
  - (i) Approval of the permit application;
  - (ii) Conditional approval of the permit application, subject to such reasonable conditions as may be necessary to secure substantially the objectives of this ordinance, and issue the permit subject to these conditions; or
  - (iii) Denial of the permit application, indicating the reason(s) for the denial.
- (b) If the City Manager or the City Manager's designee has granted conditional approval of the permit, the applicant shall submit a revised plan that conforms to the conditions established by the City Manager or the City Manager's designee. The applicant may be allowed to proceed with his land disturbing activity so long as it conforms to conditions established by the City Manager or the City Manager's designee.

- (c) No development plans will be released until the land disturbance permit has been approved.
  - (d) Disclaimer of liability. Neither the submission of a plan under the provisions herein, nor compliance with the provisions of these regulations shall relieve any person from responsibility for damages to any person or property otherwise imposed by law, nor impose any liability upon the City of Oak Ridge or its representatives for damages to any person or property.
- (8) Permit Duration. Every land disturbance permit may expire and become null and void if in the judgment of the City Manager or the City Manager's designee substantial work authorized by such permit has not commenced within one-hundred eighty (180) calendar days of issuance, or has not been completed within an amount of time deemed reasonable by the City Manager or the City Manager's designee.
- (9) Notice of Construction. The applicant must notify the City Manager or the City Manager's designee at least three (3) working days in advance of the commencement of construction.
- (10) Performance Bonds.
- (a) The City Manager or the City Manager's designee may require the submittal of a performance security or performance bond, if greater than 2.5 acres of land disturbance, prior to issuance of a permit in order to ensure that the stormwater practices are installed and maintained by the permit holder as required by the approved stormwater management plan. The bond provider shall be responsible to keep the bond in effect until such time the bond is released by the City Manager or the City Manager's designee. In the event the bond provider allows the bond to expire, the bond provider shall be responsible for the cost of completion of the work required by the permit and be responsible for any damages resulting from non-completion of the work. The amount of the installation performance security or performance bond shall be the total estimated construction cost for the structural BMPs and associated maintenance cost for the duration of the project, approved under the permit plus any reasonably foreseeable additional related costs, e.g., for damages or enforcement [or plus a certain percentage of the total estimated costs]. The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan. The applicant shall provide an itemized construction cost estimate complete with unit prices which shall be subject to acceptance, amendment or rejection by the City Manager or the City Manager's designee. Alternately, the City Manager or the City Manager's designee shall have the right to require that a professional engineer prepare the cost or to calculate the cost estimates.
  - (b) The performance security or performance bond shall be released in full only upon approval of the City Manager or the City Manager's designee. Submission of as-built plans and written certification by a registered professional engineer licensed to practice in Tennessee that the structural BMP has been installed in accordance with the approved plan and other applicable provisions of this ordinance may be required at the discretion of the City Manager or the City Manager's designee. The City Manager or the City Manager's designee may make a final inspection of the structural BMP to ensure that it is in compliance with the approved plan and the provisions of this ordinance. Provisions for a partial pro-rata release of the performance security or performance bond based on the completion of various development stages may be made at the discretion of the City Manager or the City Manager's designee. It shall be the responsibility

of the applicant to secure and renew the bond as necessary. Failure to obtain a timely renewal of bond shall result in revocation of the permit and/or the issuance of a stop work order.

(11) Transfer of Ownership.

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

(12) Inspections.

- (a) The permit holder shall perform inspections of erosion prevention and sediment control practices on all construction sites as indicated by the current, "NPDES Permit for Discharges Associated with Construction Activities" twice weekly and at least seventy-two (72) hours apart (3.5.8.2). This standard is the same for "priority construction sites." Based on the results of the inspections, any inadequate control measures or control measures in disrepair shall be replaced or modified, or repaired as necessary, before the next rain event if possible. Inspections should be documented. Quality assurance of erosion prevention and sediment controls shall be done by performing site assessment at a construction site. The site assessment shall be conducted at each outfall involving drainage totaling ten (10) acres or more (of disturbed and undisturbed acreage combined) or five (5) or more acres if draining to impaired or exceptional quality waters, within 1 month of construction commencing. The site assessment shall be performed by individuals with one or more of the following qualifications:
  - (i) A licensed professional engineer or landscape architect;
  - (ii) A Certified Professional in Erosion and Sediment Control (CPESC); or
  - (iii) A person that has successfully completed the "Level II Design Principles for Erosion Prevention and Sediment Control for Construction Sites" course.

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

- (b) The City Manager or the City Manager's designee shall perform inspections on priority construction sites, and other construction sites as warranted by site location and complaints. If the City Manager or the City Manager's designee finds that the permit holder has failed to properly install, maintain, or use proper structural and/or vegetative erosion and sediment control practices as specified in the erosion and sediment control plan and the post construction design and maintenance plan, the permit holder may be subject to a notice of violation order or additional penalties as set forth in this chapter.
- (c) The City Manager or the City Manager's designee may require an inspection by a registered Engineer licensed in the State of Tennessee, if deemed necessary, for any erosion and sediment control measure or post construction stormwater management facility to ensure they meet the design standards as described in the construction site and post construction site plans.
- (d) If the City Manager or the City Manager's designee determines that significant erosion and/or sedimentation is occurring on a graded site despite approved structural and/or vegetative erosion and sediment control practices, the City Manager or the City Manager's designee shall require the permit holder to take additional corrective action to protect the adversely affected area. The additional corrective action required shall be part of an amended erosion and sediment control plan.
- (e) Where sites or portions of construction sites have been temporarily stabilized, or runoff is unlikely due to winter conditions (e.g., site covered with snow or ice) or due to extreme drought, such inspection only has to be conducted one (1) per month until thawing or precipitation results in runoff or construction activity resumes. Inspection requirements do not apply to definable areas that have been finally stabilized.
- (f) Inspections and maintenance for post construction stormwater facilities shall be performed as required in Section 14-506 for permanent construction design and maintenance.

Section 14-504. Waivers.

- (1) General. No waivers will be granted any construction or site work project. All construction and site work shall provide for stormwater management as required by this ordinance. However, alternatives to the 2010 NPDES General Permit for Discharges from MS4s primary requirement for onsite permanent stormwater management may be considered, if:
  - (a) Management measures cannot be designed, built and maintained to infiltrate, evapotranspire, harvest and/or use, at a minimum, the first inch of every rainfall event preceded by seventy-two (72) hours of no measurable precipitation. This first inch of rainfall must be one-hundred percent (100%) managed with no discharge to surface waters.
  - (b) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this chapter. Alternative minimum requirements for onsite management of stormwater discharges have been established in a stormwater management plan that has been approved by the City Manager or the City Manager's designee.

- (2) Downstream Damage, Etc. Prohibited. In order to receive consideration, the applicant must demonstrate to the satisfaction of the City Manager or the City Manager's designee that the proposed alternative will not lead to any of the following conditions downstream:
- (a) Deterioration of existing culverts, bridges, dams, and other structures;
  - (b) Degradation of biological functions or habitat;
  - (c) Accelerated streambank or streambed erosion or siltation; and
  - (d) Increased threat of flood damage to public health, life or property.
- (3) Grading permit not to be issued where alternatives requested. No grading permit shall be issued where an alternative has been requested until the alternative is approved. If no alternative is approved, the plans must be resubmitted with a stormwater management plan that meets the primary requirement for onsite stormwater management.

Section 14-505. Stormwater system design: Construction and Permanent stormwater management.

- (1) MS4 Stormwater Design or BMP Manuals.
- (a) Adoption. The City adopts as its MS4 stormwater design and best management practices (BMP) manuals for stormwater management, construction and permanent, the following publications, which are incorporated by reference in this ordinance as if fully set out herein:
    - (i) *TDEC Erosion Prevention and Sediment Control Handbook*; most current edition.
    - (ii) *TDEC Manual for Permanent Stormwater Management and Design Guidance Manual*; most current edition.
    - (iii) This manual includes a list of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each stormwater practice. These include City approved BMPs for permanent stormwater management including green infrastructure BMPs.
  - (b) The City manual(s) may be updated and expanded from time to time, at the discretion of the governing body of the City, upon the recommendation of the City Manager or the City Manager's designee, based on improvements in engineering, science, monitoring and local maintenance experience, or changes in federal or state law or regulation.
  - (c) Stormwater facilities that are designed, constructed and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.
- (2) Submittal of a Copy of the NOC, SWPPP and Notice of Termination to the City Manager or the City Manager's Designee. Permittees who discharge stormwater through an NPDES-permitted municipal separate storm sewer system (MS4) who are not exempted in section 1.4.5 (Permit Coverage through Qualifying Local Program) of the Construction General Permit (CGP) must provide proof of coverage under the Construction General Permit (CGP); submit a copy of the Notice of Coverage (NOC); submit a copy of the Stormwater Pollution Prevention Plan (SWPPP); and at project completion, a copy of the

signed notice of termination to the City Manager or the City Manager's designee. Permitting status of all permittees covered (or previously covered) under this general permit as well as the most current list of all MS4 permits is available at the TDEC's DataViewer web site. Copies of additional applicable local, state or federal permits (i.e.: ARAP, etc.) must also be provided upon request. If requested, these permits must be provided before the issuance of any land disturbance permit or the equivalent.

- (3) Stormwater Pollution Prevention Plan (SWPPP) for Construction Stormwater Management. The applicant must prepare a stormwater pollution prevention plan for all construction activities that complies with Subsection (4) below. The purpose of this plan is to identify construction/contractor activities that could cause pollutants in the stormwater, and to describe measures or practices to control these pollutants during project construction.
- (4) Stormwater Pollution Prevention Plan (SWPPP) Requirements. The erosion prevention and sediment control plan component of the SWPPP shall accurately describe the potential for soil erosion and sedimentation problems resulting from land disturbing activity and shall explain and illustrate the measures that are to be taken to control these problems. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and potential for off-site damage. If necessary, the plan shall be phased so that changes to the site during construction that alter drainage patterns or characteristics will be addressed by an appropriate phase of the plan. The plan shall be sealed by a registered professional engineer or landscape architect licensed in the State of Tennessee. The plan shall also conform to the requirements found in the most current *TDEC Erosion Prevention 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 with contour intervals of five (5) feet or less showing present conditions and proposed contours resulting from land disturbing activity.
  - (c) The plan shall be at a minimal scale of one (1) inch equals one-hundred (100) feet.
  - (d) All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or flood plains.
  - (e) A general description of existing land cover. Individual trees and shrubs do not need to be identified.
  - (f) Stands of existing trees as they are to be preserved upon project completion, specifying their general location on the property. Differentiation shall be made between existing trees to be preserved, trees to be removed and proposed planted trees. Tree protection measures must be identified, and the diameter of the area involved must also be identified on the plan and shown to scale. Information shall be supplied concerning the proposed destruction of exceptional and historic trees in setbacks and buffer strips, where they exist. Complete landscape plans may be submitted separately. The plan must include the sequence of implementation for tree protection measures.
  - (g) Approximate limits of proposed clearing, grading and filling.
  - (h) Approximate flows of existing stormwater leaving any portion of the site.

- (i) A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.
- (j) Location, size and layout of proposed stormwater and sedimentation control improvements.
- (k) Existing and proposed drainage network including land depressions and sinkholes.
- (l) Proposed drain tile or waterway sizes. All swales, roads, etc., shall be designed to prevent flood damage to nearby buildings and other structures by being overtopped during a 24-hour duration storm of a 100-year frequency or to structurally carry the equivalent storm event.
- (m) Approximate flows leaving site after construction and incorporating water run-off mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The plan must address the adequacy of outfalls from the development: when water is concentrated, what is the capacity of waterways, if any, accepting stormwater off-site; and what measures, including infiltration, sheeting into buffers, etc., are going to be used to prevent the scouring of waterways and drainage areas off-site, etc.
- (n) The projected sequence of work represented by the grading, drainage and sedimentation and erosion control plans as related to other major items of construction, beginning with the initiation of excavation and including the construction of any sediment basins or retention/detention facilities or any other structural BMPs.
- (o) Specific remediation measures to prevent erosion and sedimentation run-off. Plans shall include detailed drawings of all control measures used; stabilization measures including vegetation and non-vegetation measures, both temporary and permanent, will be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan.
- (p) Specific details for: (1) the construction of stabilized construction entrance/exits, concrete washouts, and sediment basins for controlling erosion; road access points; (2) eliminating or keeping soil, sediment, and debris on streets and public ways at a level acceptable to the City. Soil, sediment, and debris brought onto streets and public ways must be removed by the end of the work day to the satisfaction of the City. Failure to remove the sediment, soil or debris shall be deemed a violation of this ordinance.
- (q) Proposed structures: location and identification of any proposed additional buildings, structures or development on the site.
- (r) A description of onsite measures to be taken to recharge surface water into the ground water system through runoff reduction practices.
- (s) Specific details for construction waste management: Construction site operators shall control waste such as discarded building materials, concrete truck washout, petroleum products and petroleum related products, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water

quality. When the material is erodible, such as soil, the site must be treated as a construction site.

- (t) The plan shall include detailed drawings of all structural and non-structural controls and stabilization measures which shall be designed to minimize erosion and maximize sediment removal resulting in storm discharge associated with the two (2) year, twenty-four (24) hour design storm event as a minimum, from total rainfall in the designed period. These specific details for constructing stabilized construction entrance/exits, concrete washouts, sediment basins for controlling erosion, and road access points should be designed to eliminate or keep soils, sediment, and/or debris to a minimum.
  - (u) When land disturbance activities are proposed along 303(d) listed streams impaired for siltation or a known high quality waterway, the erosion and sediment control plan shall be designed at a minimum to control the discharge of a five (5) year (24) twenty-four hour storm event along with other additional minimum standards outlined in the current Tennessee Construction General Permit.
- (5) Development near Karst Features. Development that has or is near karst features shall include in the land disturbance permit plan or comply with the following:
- (a) Pre-development natural drainage courses shall be maintained as much as feasible.
  - (b) No structures shall be built with the contour line within the post-development contour line calculated for each sinkhole present on the property for a 24-hour rain event duration storm of the 100-year frequency as if the sinkhole was completely filled.
  - (c) Removal of overburden in areas with karst features shall be minimized.
  - (d) Existing healthy mature trees whose drip line canopy covers a karst feature should be protected during grading whenever possible. Removal of trees should be replaced in kind by trees in the same locale and maintained as required to ensure healthy growth.
  - (e) Changes to terrain, including the remediation of a sinkhole shall not move this 100-year contour line onto adjacent property nor increase stormwater runoff onto adjacent properties without written permission from the relevant adjacent property owner(s).
  - (f) All exposed karst features exposed by cutting of overburden must be examined by a qualified licensed professional for appropriate mitigation procedures and The Erosion and Control and Stormwater Management Plan shall be amended accordingly.
- (6) Development within City Floodway Zoning Districts. Land may be filled within the 100-year flood boundary limits provided such fill extends twenty-five (25) feet beyond all limits of any structures erected. If such fill areas occurs, then the 100-year flood elevation contour shall be established on finished contours. No fill shall be placed in established buffer area as define in by this ordinance.
- (7) General Design Performance Criteria for Permanent Stormwater Management. The following performance criteria shall be addressed for permanent stormwater management at all development sites:

- (a) Site design standards for all new and redevelopment require, in combination or alone, management measures that are designed, built and maintained to infiltrate, evapotranspire, harvest and/or use, at a minimum, the first inch of every rainfall event preceded by seventy-two (72) hours of no measurable precipitation. This first inch of rainfall must be one-hundred percent (100%) managed with no discharge to surface waters.
- (b) Limitations to the application of runoff reduction requirements include, but are not limited to:
  - (i) Where a potential for introducing pollutants into the groundwater exists, unless pretreatment is provided;
  - (ii) Where pre-existing soil contamination is present in areas subject to contact with infiltrated runoff;
  - (iii) Presence of sinkholes or other karst features.
- (c) Pre-development infiltrative capacity of soils at the site must be taken into account in selection of runoff reduction management measures.
- (d) Incentive Standards for re-developed sites: a ten percent (10%) reduction in the volume of rainfall to be managed for any of the following types of development. Such credits are additive such that a maximum reduction of fifty percent (50%) of the standard in the paragraph above is possible for a project that meets all five (5) criteria:
  - (i) Redevelopment;
  - (ii) Brownfield redevelopment;
  - (iii) High density (>7 units per acre);
  - (iv) Vertical Density, (Floor to Area Ratio (FAR) of 2 or >18 units per acre); and
  - (v) Mixed use and Transit Oriented Development (within ½ mile of transit).
- (e) For projects that cannot meet one-hundred percent (100%) of the runoff reduction requirement unless subject to the incentive standards, the remainder of the stipulated amount of rainfall must be treated prior to discharge with a technology documented to remove eighty percent (80%) total suspended solids (TSS) unless an alternative provided under this ordinance is approved. The treatment technology must be designed, installed and maintained to continue to meet this performance standard.
- (f) For projects that cannot meet one-hundred percent (100%) of the runoff reduction requirements, the City Manager or the City Manager's designee may allow runoff reduction measures to be implemented at another location within the same USGS 12-digit hydrologic unit code (HUC) as the original project. Off-site mitigation must be a minimum of 1.5 times the amount of water not managed on site. The off-site mitigation location (or alternative location outside the 12-digit HUC) and runoff reduction measures must be approved by the City Manager or the City Manager's designee. The City Manager or the City Manager's designee shall identify priority areas within the watershed in which mitigation projects can be completed. The City Manager or the City Manager's designee must create an

inventory of appropriate mitigation projects, and develop appropriate institutional standards and management systems to value, evaluate and track transactions. Mitigation can be used for retrofit or redevelopment projects, but should be avoided in areas of new development.

- (g) To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the MS4 BMP manual.
  - (h) Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.
  - (i) Stormwater discharges from hot spots may require the application of specific structural BMPs and pollution prevention practices. In addition, stormwater from a hot spot land use may not be infiltrated.
  - (j) Prior to or during the site design process, applicants for land disturbance permits shall consult with the City Manager or the City Manager's designee to determine if they are subject to additional stormwater design requirements.
  - (k) The calculations for determining peak flows shall be used for sizing all stormwater facilities.
- (8) Minimum Volume Control Requirements. In accordance with Section 14-501(1)(c)(iii) the City Manager or the City Manager's designee may establish standards to regulate the quantity of stormwater discharged, therefore:
- (a) Stormwater designs shall meet the multi-stage storm frequency storage requirements to control the peak flow rates of stormwater discharge associated with the one (1) year, two (2) year, five (5) year, ten (10) year, and twenty-five (25) year Type II twenty-four (24) hour design storm frequency. Post construction stormwater generated runoff must be reduced to pre-construction levels. These practices should seek to utilize pervious areas for storm water treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.
  - (b) Whenever detention or retention ponds are employed as part of a storm water management system, then such ponds and related stormwater management equipment and facilities shall be maintained in perpetuity as requires by this ordinance.
  - (c) If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the City Manager or the City Manager's designee may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.
  - (d) All stormwater design assumptions, calculation and analysis results shall be summarized in an executive summary attached to the site plan submission.
- (9) Permanent Stormwater Management Plan Requirements. The stormwater management plan shall include sufficient information to allow the City Manager or the City Manager's designee to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for

managing stormwater generated at the project site. To accomplish this goal the stormwater management plan shall include the following:

- (a) Topographic base map: Topographic base map of the site which extends a minimum of one-hundred (100) feet beyond the limits of the proposed development and indicates:
  - (i) Existing surface water drainage including streams, ponds, culverts, ditches, sink holes, wetlands; and the type, size, elevation, etc., of 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; and
  - (iv) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading.
- (b) Proposed structural and non-structural BMPs;
- (c) A written description of the site plan and justification of proposed changes in natural conditions may also be required;
- (d) Calculations: Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in this ordinance. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this chapter and the guidelines of this manual. 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 including assumed soil moisture conditions;
  - (iv) Peak runoff rates and total runoff volumes for each watershed area;
  - (v) Infiltration rates, where applicable;
  - (vi) Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;
  - (vii) Flow velocities;
  - (viii) Data on the increase in rate and volume of runoff for the design storms; and
  - (ix) Documentation of sources for all computation methods and field test results.

- (e) Soils information: If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.
- (10) Maintenance and Repair Plan. The design and planning of all permanent stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.
- (11) Buffers and Buffer Zones. "Buffer Zone" means a setback from the top of water body's bank of undisturbed vegetation, including trees, shrubs and herbaceous vegetation; enhanced or restored vegetation; or the re-establishment of native vegetation bordering streams, ponds, wetlands, springs, reservoirs or lakes, which exists or is established to protect those water bodies. The goal of the water quality buffer is to preserve undisturbed vegetation that is native to the streamside habitat in the area of the project. Vegetated, preferably native, water quality buffers protect water bodies by providing structural integrity and canopy cover, as well as stormwater infiltration, filtration and evapotranspiration.
- (12) Buffer Zone Requirements.
  - (a) "Construction" applies to all streams adjacent to construction sites, with an exception for streams designated as impaired or Exceptional Tennessee waters, as designated by the Tennessee Department of Environment and Conservation. A 30-foot natural riparian buffer zone adjacent to all streams at the construction site shall be preserved, to the maximum extent practicable, during construction activities at the site. The water quality 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 (see rules to implement a certification program for Qualified Hydrologic Professionals, TN Rules Chapter 0400-40-17). Buffer zones are not primary sediment control measures and should not be relied on as such. Rehabilitation and enhancement of a natural buffer zone is allowed, if necessary, for improvement of its effectiveness of protection of the waters of the State. The buffer zone requirement only applies to new construction sites. The riparian buffer zone should be preserved between the top of stream bank and the disturbed construction area. The thirty (30) feet criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than fifteen (15) feet at any measured location.
  - (b) Buffer zone requirements for discharges into impaired or exceptional waters: A sixty (60) foot natural riparian buffer zone adjacent to the receiving stream designated as impaired or exceptional waters shall be preserved, to the maximum extent practicable, during construction activities at the site. The water quality buffer zone is required to protect waters of the State (e.g. perennial and intermittent streams, rivers, lakes, wetlands) located within or immediately adjacent to the boundaries of the project, as identified on a 7.5-minute USGS quadrangle map, or as determined by the director. Buffer zones are not sediment

control measures and should not be relied upon as primary sediment control measures. Rehabilitation and enhancement of a natural buffer zone is allowed, if necessary, for improvement of its effectiveness of protection of the waters of the State. The buffer zone requirement only applies to new construction sites. The riparian buffer zone should be established between the top of stream bank and the disturbed construction area. The sixty (60) feet criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than thirty (30) feet at any measured location.

- (c) "Permanent" new development and significant redevelopment sites are required to preserve water quality buffers along waters within the City. Buffers shall be clearly marked on site development plans, grading permit applications, and/or concept plans. Buffer width depends on the size of a drainage area. Streams or other waters with drainage areas less than 1 square mile will require buffer widths of thirty (30) feet minimum. Streams or other waters with drainage areas greater than one (1) square mile will require buffer widths of sixty (60) feet minimum. The sixty (60) feet criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than thirty (30) feet at any measured location. The City Manager or the City Manager's designee shall develop and apply criteria for determining the circumstances under which these averages will be available. A determination that standards cannot be met may not be based solely on the difficulty or cost associated with implementation. Every attempt should be made for development and redevelopment activities not to take place within the buffer zone. If water quality buffer widths as defined above cannot be fully accomplished on-site, the City Manager or the City Manager's designee shall determine the circumstances under which alternative buffer widths will be available. A determination that water quality buffer widths cannot be met on site may not be based solely on the difficulty or cost of implementing measures, but must include multiple criteria, such as: type of project, existing land use and physical conditions that preclude use of these practices.

Section 14-506. Permanent stormwater management: operation, maintenance, and inspection.

- (1) As Built Plans. All applicants are required to submit actual as built plans for any structures located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be sealed by a registered professional engineer licensed to practice in Tennessee. A final inspection by the City is required before any performance security or performance bond will be released. The City shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or performance bond on the completion of various stages of development. In addition, occupation permits shall not be granted until corrections to all BMPs have been made and accepted by the City.
- (2) Landscaping and Stabilization Requirements.
  - (a) Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall be 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 not later than fifteen (15) days 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:

responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the City may take necessary corrective action. The cost of any action by the City under this section shall be charged to the responsible party.

Section 14-507. Existing locations and ongoing developments.

(1) On-Site Stormwater Management Facilities Maintenance Agreement.

- (a) Where the stormwater facility is located on property that is subject to a development agreement, and the development agreement provides for a permanent stormwater maintenance agreement that runs with the land, the owners of property must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owners and all subsequent property owners and their lessees and assigns, including but not limited to, homeowner associations or other groups or entities.
- (b) The maintenance agreement shall:
  - (i) Assign responsibility for the maintenance and repair of the stormwater facility to the owners of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.
  - (ii) Provide for a periodic inspection by the property owners in accordance with the requirements of below for the purpose of documenting maintenance and repair needs and to ensure compliance with the requirements of this ordinance. The property owners will arrange for this inspection to be conducted by a registered professional engineer licensed to practice in the State of Tennessee, who will submit a signed written report of the inspection to the City Manager or the City Manager's designee. It shall also grant permission to the City to enter the property at reasonable times and to inspect the stormwater facility to ensure that it is being properly maintained.
  - (iii) Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, cutting and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other stormwater facilities. It shall also provide that the property owners shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the MS4 BMP manual.
  - (iv) Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the City Manager or the City Manager's designee.
  - (v) Provide that if the property is not maintained or repaired within the prescribed schedule, the City shall perform the maintenance and repair at its expense, and bill the same to the property owner. The maintenance agreement shall also provide that the City's cost of performing the maintenance shall be a lien against the property.

(2) Existing Problem Locations – No Maintenance Agreement.

- (i) 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
  - (ii) Where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within fifteen (15) days.
- (b) 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.
- (c) The following criteria shall apply to revegetation efforts:
  - (i) 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 ninety percent (90%) of the seeded area.
  - (ii) 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.
  - (iii) Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.
  - (iv) In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.
- (3) Inspection of Stormwater Management Facilities. Periodic inspections of facilities shall be performed, documented, and reported in accordance with this chapter, as detailed in Section 14-506.
- (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 during inspection of the facility and at other reasonable times upon request.
- (5) Failure to Meet or Maintain Design or Maintenance Standards. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this chapter, the City, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the City shall notify in writing the party

- (a) The City Manager or the City Manager's designee shall, in writing, notify the owners of existing locations and developments of specific drainage, erosion or sediment problems affecting or caused by such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance. Discharges from existing BMPs that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit.
  - (b) Inspection of existing facilities. The City 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-stormwater discharges, and to establish inspection programs to verify that all stormwater management facilities are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: (1) routine inspections; (2) random inspections; (3) inspections based upon complaints or other notice of possible violations; (4) inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; (5) inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the City's NPDES stormwater permit; and (6) joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: (1) reviewing maintenance and repair records; (2) sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and (3) evaluating the condition of drainage control facilities and other BMPs.
- (3) Owner/Operator Inspections - Generally. The owners and/or the operators of stormwater management practices shall:
- (a) Perform routine inspections to ensure that the BMPs are properly functioning. These inspections shall be conducted on an annual basis, at a minimum. These inspections shall be conducted by a person familiar with control measures implemented at a site. Owners or operators shall maintain documentation of these inspections. The City Manager or the City Manager's designee may require submittal of this documentation.
  - (b) Perform comprehensive inspection of all stormwater management facilities and practices. These inspections shall be conducted once every five (5) years, at a minimum. Such inspections must be conducted by either a professional engineer or landscape architect, licensed in the State of Tennessee. Complete inspection reports for these five (5) year inspections shall include:
    - (i) Facility type;
    - (ii) Inspection date;
    - (iii) Latitude and longitude, and nearest street address;
    - (iv) BMP owner information (e.g. name, address, phone number, fax, and email);
    - (v) A description of BMP condition including: vegetation and soils; inlet and outlet channels and structures; embankments, slopes, and safety benches; spillways, weirs, and other control structures; and any sediment and debris accumulation;

- (vi) Photographic documentation of BMPs; and
    - (vii) Specific maintenance items or violations that need to be corrected by the BMP owner along with deadlines and re-inspection dates.
  - (c) Owners or operators shall maintain documentation of these inspections. The City Manager or the City Manager's designee may require submittal of this documentation.
- (4) Requirements for All Existing Locations and Ongoing Developments. The following requirements shall apply to all locations and development at which land disturbing activities have occurred previous to the enactment of this ordinance:
- (a) Denuded areas must be vegetated or covered under the standards and guidelines specified in Section 14-506 and on a schedule acceptable to the City Manager or the City Manager's 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, at the discretion of the City Manager or the City Manager's designee, be controlled to the maximum extent practicable to prevent its pollution. 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
- (5) Corrections of Problems Subject to Appeal. Corrective measures imposed by the City Manager or the City Manager's designee under this section are subject to appeal under Section 14-511 of this chapter.

Section 14-508. Illicit discharges.

- (1) Scope. This section shall apply to all water generated on developed or undeveloped land entering the City'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 or any discharge that flows from stormwater facility that is not inspected in accordance with Section 14-507 shall be an illicit discharge. Non-stormwater discharges shall include, but shall not be limited to, sanitary wastewater, car wash wastewater, radiator flushing disposal, spills from roadway 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) Groundwater infiltration to storm drains;
    - (vi) Pumped groundwater;
    - (vii) Foundation or footing drains;
    - (viii) Crawl space pumps;
    - (ix) Air conditioning condensation;
    - (x) Springs;
    - (xi) Non-commercial washing of vehicles;
    - (xii) Natural riparian habitat or wetland flows;

- (xiii) Swimming pools (if dechlorinated - typically less than one PPM chlorine);
  - (xiv) Firefighting activities; or
  - (xv) Any other uncontaminated water source.
- (b) Discharges specified in writing by the City as being necessary to protect public health and safety.
- (c) Dye testing is an allowable discharge if the City has so specified in writing.
- (d) Discharges authorized by the Construction General Permit (CGP), which comply with Section 3.5.9 of the same:
- (i) Dewatering of work areas of collected stormwater and ground water (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 site;
  - (iii) Water used to control dust in accordance with CGP Section 3.5.5;
  - (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 groundwater or spring water; and
  - (vii) Foundation or footing drains where flows are not contaminated with pollutants (process materials such as solvents, heavy metals, etc.).
- (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.
- (4) Reduction of Stormwater Pollutants by the Use of Best Management Practices. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMPs 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 in compliance with the provisions of this section. Discharges from existing BMPs that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit.
- (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 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 in person or by telephone, fax, or email, 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 within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall 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) No Illegal Dumping Allowed. No person shall dump or otherwise deposit outside an authorized landfill, convenience center or other authorized garbage or trash collection point, any trash or garbage of any kind or description on any private or public property, occupied or unoccupied, inside the City.

Section 14-509. Enforcement.

- (1) Enforcement Authority. The City shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this section. 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 City Manager or the City Manager's designee 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 those activities directed at cleaning up, abating discharge, and installing appropriate control measures.
- (e) Withholding of Plan Approvals or Other Authorizations – Where a facility is in noncompliance, the City Manager or the City Manager's designee'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 City Manager or the City Manager's designee may also use other escalated measures provided under local legal authorities. The City Manager or the City Manager's designee may perform work necessary to improve erosion control measures and collect the funds from the responsible party in an appropriate manner, such as collecting against the project's bond or directly billing the responsible party to pay for work 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 ordinance or a permit or order issued hereunder, the City Manager or the City Manager's designee may

serve upon such person written notice of the violation. Within ten (10) days of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the City Manager or the City Manager's 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 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 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) days prior to the hearing.
- (e) Compliance order – When the City finds that any person has violated or continues to violate this chapter or a permit or order issued thereunder, he may issue an order to the violator directing that, following a specific time period, adequate structures or devices be installed and/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 and stop work orders – When the City finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder, the City Manager or the City Manager's designee may issue a stop work order or 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 except for terminating the discharge and installing appropriate control measures.
- (g) Suspension, revocation or modification of permit – The City may suspend, revoke or modify the permit authorizing the land development project or any other project of the applicant or other responsible person within the City. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated upon such conditions as the City Manager or the City Manager's designee may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

- (h) Conflicting standards – Whenever there is a conflict between any standard contained in this chapter and in the BMP manual adopted by the City under this ordinance, the strictest standard shall prevail.

Section 14-510. 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 Manager or the City Manager's designee, shall be guilty of a civil offense.
- (2) Penalties. Under the authority provided in Tennessee Code Annotated §68-221-1106, the City declares that any person violating the provisions of this chapter may be assessed a civil penalty by the City of not less than fifty dollars (\$50) and not more than five-thousand dollars (\$5,000) per day for each day of violation. Each day of violation shall constitute a separate violation.
- (3) Measuring Civil Penalties. Under the authority provided in Tennessee Code Annotated §68-221-1106, the following factors may be considered by the City in assessing a civil penalty:
  - (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 City;
  - (f) The amount of penalty established by ordinance or resolution for specific categories of violations; and
  - (g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.
- (4) Recovery of Damages and Costs. In addition to the civil penalty in Subsection (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; and
  - (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) Referral to TDEC. Where the City has used progressive enforcement to achieve compliance with this ordinance, and in the judgment of the City has not been successful, the City may refer the violation to TDEC. For the purposes of this provision, "progressive enforcement" shall mean two (2) follow-up inspections and two (2) warning letters. In

in addition, enforcement referrals to TDEC must include, at a minimum, the following information:

- (a) Construction project or industrial facility location;
  - (b) Name of owner or operator;
  - (c) Estimated construction project or size or type of industrial activity (including the Standard Industrial Classification (SIC) code, if known); and
  - (d) Records of communications with the owner or operator regarding the violation, including at least two (2) follow-up inspections, two (2) warning letters or notices of violation, and any response from the owner or operator.
- (6) 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.
- (7) Remedies Cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted.

Section 14-511. Appeals from Decisions of City Manager or the City Manager's Designee.

- (1) When May Appeal. Whenever the City Manager or the City Manager's designee shall reject or refuse to approve the mode or manner of construction proposed to be followed, or materials to be used, or when it is claimed that the provisions of this ordinance do not apply, or that an equally good or more desirable form of construction can be employed in any specific case, or when it is claimed that the true intent and meaning of this ordinance or any of the regulations thereunder have been misconstrued or wrongly interpreted, the owner of such property or his duly authorize agent, may appeal from the decision of the City Manager or the City Manager's designee to the Board of Zoning Appeals. Notice of appeal shall be in writing and filed within sixty (60) days after the decision is rendered by the City Manager or the City Manager's designee. A fee of two hundred dollars (\$200) shall accompany such notice of appeal which shall be returned to the appellant if successful.
- (2) Time for Appeal May be Limited. In case of a condition which, in the opinion of the City Manager or the City Manager's designee, is unsafe or dangerous, the City Manager or the City Manager's designee may, in his order, limit the time for such appeal to a shorter period.
- (3) Appeal Form. Appeals under this section shall be on forms provided by the City Manager or the City Manager's designee.
- (4) Timeframe. The Board of Zoning Appeals shall meet and conduct a hearing on any appeal within thirty (30) days unless the appellant requests or consents to additional time.

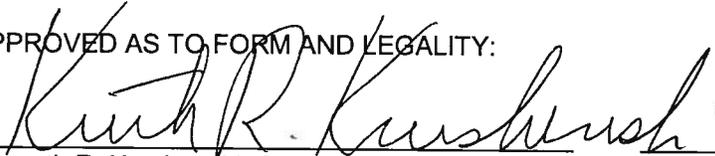
Section 14-512. Appeal of Damage Assessment or Civil Penalty

Pursuant to Tennessee Code Annotated §68-221-1106(d), any person incurring a damage assessment or a civil penalty as provided by this chapter (alleged violator) may appeal the damage assessment or civil penalty to the City's Board of Zoning Appeals.

- (1) Appeals to be in Writing. The appeal shall be in writing and filed with the Community Development Department within thirty (30) days after the civil penalty and/or damage assessment is served in any manner authorized by law.
- (2) Appealing Decisions of Board of Zoning Appeals. The alleged violator may appeal a decision of the Board of Zoning Appeals pursuant to the provisions of Tennessee Code Annotated, Title 27, Chapter 8.
- (3) Failure to Appeal to Board of Zoning Appeals. If the alleged violator does not file an appeal within the timeframe set forth above in Subsection (1), the alleged violator shall be deemed to have consented to the damage assessment or civil penalty and it shall become final. The City may then apply to the appropriate chancery court for a judgment and seek execution of such judgment. The court shall treat the failure to appeal such damage assessment or civil penalty as a confession of judgment.

Section 2. This ordinance shall become effective ten (10) days after adoption on second reading, the welfare of the City of Oak Ridge requiring it.

APPROVED AS TO FORM AND LEGALITY:

  
 \_\_\_\_\_  
 Kenneth R. Krushenski, City Attorney

Warren L. Gooch, Mayor

\_\_\_\_\_  
 Bruce M. Applegate, Jr., Acting City Clerk

First Reading: \_\_\_\_\_  
 Publication Date: \_\_\_\_\_  
 Second Reading: \_\_\_\_\_  
 Publication Date: \_\_\_\_\_  
 Effective Date: \_\_\_\_\_

# CITY MANAGER'S REPORT



RECEIVED

WASTE CONNECTIONS OF TENNESSEE, INC.  
*Connect with the Future* CITY MANAGER'S OFFICE

2016 JAN 29 AM 9:05

January 27, 2016

Mr. Mark Watson  
City Manager  
City of Oak Ridge  
PO Box 1  
Oak Ridge, TN 37831

Dear Mr. Watson,

Thank you for all of your efforts in bringing to the City Council our offer to extend our current contract for an additional five years. At this time we have decided to withdraw our offer for the extension.

Again, thank you for all of your help and we appreciate servicing the City of Oak Ridge.

Sincerely,

Waste Connections of Tennessee, Inc.  
Douglas McGill  
Divisional Municipal Marketing Manager