

ORDINANCE 362

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES BY REPLACING TITLE 14, "ZONING AND LAND USE CONTROL," CHAPTER 16, "STORMWATER MANAGEMENT, EROSION AND SEDIMENTATION CONTROL" IN ITS ENTIRETY AND SUBSTITUTING IN LIEU THEREOF A NEW TITLE 14, CHAPTER 16, RELATING TO STORMWATER MANAGEMENT, EROSION AND SEDIMENTATION CONTROL, TO FIX A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE.

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMAN AS FOLLOWS:

SECTION I. That Title 14, Chapter 16 of the Code of Ordinances is deleted in its entirety and replaced by the following:

CHAPTER 16

STORMWATER MANAGEMENT, EROSION AND SEDIMENTATION CONTROL

SECTION

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concerns.

- 14-1625. Improvements required in existing development normally at owner's expense.
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- 14-1633. Certificate of occupancy not issued until compliance with plan verified.
- 14-1634. Plan construction acceptance and bond release. Drainage and sedimentation control plan activities must be inspected and accepted by the building inspector and/or the town designee.
- 14-1635. Appeal of administrative action.
- 14-1636. Town clean up resulting from violations at developer/owner's expense.
- 14-1637. Penalties enforcement.

14-1601. Short title. This chapter shall be known as the Stormwater Management, Erosion and Sedimentation Control Ordinance of the Town of Mount Carmel, Tennessee. (Ord. #334, June 2008)

14-1602. Purpose. The purpose of this chapter is to conserve the land, water and other natural resources of the Town of Mount Carmel and Hawkins County; and promote the public health and welfare of the people by establishing requirements for the control of stormwater, erosion and sedimentation and by establishing procedures whereby these requirements shall be administered and enforced; and to diminish threats to public safety from degrading water quality caused by the run-off of excessive stormwater and associated pollutants, to reduce flooding and the hydraulic overloading of the town's stormwater system; and to reduce the economic loss to individuals and the community at large. (Ord. #334, June 2008)

14-1603. 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) "As-built plans." Drawings depicting conditions as they were actually constructed.

(2) "Best Management Practices or BMPs." means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

(3) "Brownfield" means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

(4) "Channel." A natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.

(5) "Community water." Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the Town of Mount Carmel, Tennessee.

(6) "Construction Site Operator" for the purpose of this section and in the context of stormwater associated with construction activity, means any person associated with a construction project that meets either of the following two criteria:

a) This person has operational or design control over construction plans and specifications, including the ability to make modifications to those plans and specifications. This person is typically the owner or developer of the project or a portion of the project, and is considered the primary permittee; or

b) This person has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a SWPPP for the site or other permit conditions. This person is typically a contractor or a commercial builder who is hired by the primary permittee, and is considered a secondary permittee.

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

(7) "Contaminant." Any physical, chemical, biological, or radiological substance or matter in water.

(8) "Control Measure" as used in this section, refers to any Best Management Practice or other method used to prevent or reduce the discharge of pollutants to waters of the state.

(9) "Co-permittees" are operators who by mutual consent request joint and severed responsibility for coverage under this general permit.

(10) "Denuded area." Areas disturbed by grading, filling, or other such activity in which all vegetation has been removed and soil is exposed directly to the elements allowing for the possibility of erosion and stormwater and sediment run-off.

(11) "Design storm event." A hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a

stormwater facility.

(12) "Developer." Any person, owner, individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns.

(13) "Development." Any activity on one (1) acre or more or on three (3) lots or more that involves making changes to the land contour by grading, filling, excavating, removal, or destruction of topsoil, trees, or vegetative covering.

(14) "Discharge." (A) To 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.

(B) when used without a qualifier, refers to "discharge of a pollutant."

(15) "Discharge-related activities" include: activities which cause, contribute to, or result in stormwater point source pollutant discharges; and measures to control stormwater discharges, including the site, construction and operation of best management practices (BMPs) to control, reduce or prevent stormwater pollution.

(16) "Drainage area." The geographic area or region that contributes surface runoff to a common outlet or outlets.

(17) "Drainage." A general term applied to the removal of surface or subsurface water from a given area either by gravity or by pumping; commonly applied to surface water.

(18) "Drainage and sedimentation control plan." For the purpose of this chapter, a drainage and sedimentation control plan refers to a formal written document addressing grading, vegetation, drainage, and stormwater flows, erosion and sedimentation controls, as specified in §§ 14-1605 through 14-1608, that is reviewed by the public works director and/or building inspector with the technical assistance of the Hawkins County Soil Conservationist and Extension Agents, reviewed by the Mount Carmel Planning Commission, and if approved by the planning commission, is used as the basis for the building inspector to issue a grading permit that allows land disturbing activity to proceed.

(19) "Drainage ways and local waters." Any and all streams, creeks, branches, ponds, reservoirs, springs, wetlands, sinkholes, wells, drainage ways and wet weather ditches, or other bodies of surface or subsurface water, natural or artificial including Mount Carmel's stormwater system, lying within or forming a part of the boundaries of the Town of Mount Carmel, or the area under the regulatory responsibility of the Mount Carmel Planning Commission.

(20) "Easement." An acquired privilege or right of use or enjoyment that a person, party, firm, corporation, municipality or other legal

entity has in the land of another.

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

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

(23) "Exceptional Tennessee Waters" are surface waters of the State of Tennessee that satisfy the characteristics as listed in Rule 1200-4-3-.06 of the official compilation - rules and regulations of the State of Tennessee. Characteristics include waters within state or national parks, wildlife refuges, wilderness or natural areas; State or Federal Scenic Rivers; federally designated critical habitat; waters within an areas designated as Lands Unsuitable for Mining; waters with naturally reproducing trout; waters with exceptional biological diversity or; other waters with outstanding ecological or recreational value as determined by TDEC.

(24) "Grading permit." The permit that must be issued by the building inspector, or in his/her absence, the town's designee, before any land disturbing activity is undertaken by a developer, or when grading, filling, or excavating is proposed on a project.

(25) "Hotspot (priority area)." An area where land use or activities generate highly contaminated runoff with concentrations of pollutants in excess of those typically found in stormwater. Examples might include operations producing concrete or asphalt, auto repair shops, auto supply shops, large commercial parking area, restaurants.

(26) "Illicit connections." (a) Illegal and/or unauthorized connections to the municipal separate stormwater system whether or not such connections result in discharges into that system

(b) any man-made conveyance connecting an illicit discharge directly to a municipal separate storm sewer.

(27) "Illicit discharge." Any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under § 14-1604.

(28) "Impaired Waters" means any segment of surface waters that has been identified by the state as failing to support classified uses. TDEC periodically compiles a list of such waters known as the 303(d) List.

(29) "Land disturbing activity." Any activity which may result in soil erosion from water or wind and the movement of sediments into drainage ways, or local water, including, but not limited to, clearing, grading, excavating, transportation and filling of land, except that the term shall not include:

(a) Such minor land disturbing activities as home and gardens and individual home landscaping, repairs and maintenance work.

(b) Construction, installation or maintenance of individual

service connections, or septic lines and drainage fields. Utility line construction of 1.65 miles for a five foot (5') wide disturbed area will require a permit. If the Town of Mount Carmel is the permittee, the permit will be obtained from the Tennessee Department of Environment and Conservation.

(c) Single family residences being built unless the disturbed area is an acre or more or the work is part of a larger plan or development that disturbs an acre or more. A separate permit is not required when part of a sub-division or larger plan of development that is permitted.

(d) Emergency work to protect life, limb or property.

(30) "Maintenance." 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.

(31) "Maintenance agreement." 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.

(35) "Margin of Safety (MOS)" The "MOS" accounts for uncertainty in the loading calculation. The MOS may not be the same for different water bodies due to differences in the availability and strength of data used in the calculations.

(36) "Municipal Separate Storm Sewer System (MS4) (Municipal Separate Stormwater System)." The conveyances owned or operated by the municipality 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.

(37) "National Pollutant Discharge Elimination System permit or NPDES permit." A permit issued pursuant to 33 U.S.C. 1342.

(38) "Nonpoint Source" is essentially any source of pollutant(s) that is not a point source. Examples are sheet flow from pastures and runoff from paved areas.

(39) "Off-site facility." A structural BMP located outside the subject property boundary described in the permit application for land development activity.

(40) "On-site facility." A structural BMP located within the subject property boundary described in the permit application for land development activity.

(41) "Owner or operator" means the owner or operator of any "facility or activity" subject to regulation under the NPDES program.

(42) "Owner's authorized representative" The person who has "in-writing" authorization from the owner of record of the property or facility. A written notarized option to lease and/or purchase the property/facility is

acceptable.

(43) "Peak flow." The maximum instantaneous rate of flow of water at a particular point resulting from a storm event.

(44) "Permanent stormwater management facility." A permanent basin or pond (and in some cases a ditch or swale) designed to control the amount of stormwater leaving the developed site so that the volume and velocity does not exceed the pre-development flow.

(45) "Person." 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.

(46) "Point Source" means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

(47) "Pollutant" as used in this section means (1) Any thing that causes or contributes to pollution. Pollutants may include, but are not limited to, oil based paints, varnishes and solvents; rubbish, garbage, litter or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; floatables, pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal e-coliform and pathogens; dissolved and particulate metals; animal waste; wastes and residues that result from constructing a building or structure; noxious or offensive matter of any kind; excessive grass clippings, or other harmful items that may enter the storm system of the Town.

(2) Dumping of unlawful items within the Town.

(48) "Priority construction activity" those construction activities discharging directly into, or immediately upstream of, waters the state recognizes as impaired (for siltation or habitat alteration) or Exceptional Tennessee Waters.

(49) "Priority area." Hot spot as defined above.

(50) "Priority construction activity." Those construction activities discharging directly into, or immediately upstream of waters the state recognizes as impaired (for siltation or habitat alteration) or Exceptional Tennessee waters.

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

(52) "Runoff." That portion of the precipitation on a drainage area that is discharged from the area into the municipal separate stormwater system.

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

(54) "Sedimentation." Soil particles suspended in stormwater that can settle in streambeds and disrupt the natural flow of the stream.

(55) "Significant Contributor" is defined as a source of pollutants where the volume, concentration, or mass of a pollutant in a stormwater discharge can cause or threaten to cause pollution, contamination, or nuisance that adversely impact human health or the environment and cause or contribute to a violation of any applicable water quality standards for receiving water.

(56) "Soils report." 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 supervising of employees.

(57) "Stabilization." Providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.

(58) "Stormwater." Stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.

(59) "Stormwater management." The programs to maintain quality and quantity of stormwater runoff to pre-development levels.

(60) "Stormwater management facilities." The drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed of.

(61) "Stormwater management plan." 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.

(62) "Stormwater runoff." Flow on the surface of the ground resulting from precipitation.

(63) "Stream" means a surface water that is not a wet weather conveyance.

(64) "Structural BMPs." Devices that are constructed to provide control of stormwater runoff.

(65) "Surface water." Includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other watercourses, lakes and reservoirs.

(66) "Temporary sediment basin." A temporary basin or pond constructed across a drainage way, or of an excavation that creates a basin, or by a combination of both to slow the flow of water and/or prevent sediment from moving further downstream. The size of the structure will depend upon the location, size of the drainage area, soil type, land cover/use, rainfall

amount, and any unique site conditions favorable to producing high runoff volume, velocity, or sediment.

(67) "Tennessee Department of Environment and Conservation (TDEC)" is the department of the State of Tennessee government charged with oversight of the MS4 program.

(68) "Water quality buffer." 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.

(69) "Watercourse." A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

(70) "Watershed." All the land area that contributes runoff to a particular point along a waterway. (Ord. #334, June 2008)

(71) "Wet weather conveyance" means, notwithstanding any other law or rule to the contrary, manmade or natural watercourses, including natural watercourses that have been modified by channelization:

(A) That flow only in direct response to precipitation runoff in their immediate locality;

(B) Whose channels are at all times above the groundwater table;

(C) That are not suitable for drinking water supplies; and

(D) 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 (2) months.

14-1604. Regulated land disturbing activities. (1) Except as provided in §§ 14-1604(2) and (3), it shall be unlawful for, or any development, construction, or renovation activity any person to engage in any land disturbing activity on any commercial development involving at least one (1) acre or three (3) adjacent lots or more (unless such lots are part of a subdivision or other project that has a current approved drainage and sediment control plan) or less than one (1) acre if that construction activity is part of a larger common plan of development or sale that would disturb one (1) acre or more without submitting and obtaining approval of a drainage and sedimentation plan as detailed in §§ 14-1606 through 14-1611 of this chapter, and being issued a grading permit by the building inspector.

(2) Any person who owns, occupies and operates private agriculture or forestlands shall not be deemed to be in violation of this chapter of land disturbing activities, which result from the normal functioning of these lands, however, the building inspector has the authority to require best practices erosion and sedimentation control measures if pollution and run-off problems are evident.

(3) Any state or federal agency not under the regulatory authority of the Town of Mount Carmel for stormwater management, erosion and sedimentation control. (Ord. #334, June 2008)

14-1605. Permit required for any land disturbing activity. Any land disturbing activity, as defined, shall require a grading permit, in addition to any building permit that must be issued by the building inspector prior to the commencement of any work. Grading permits for land disturbing activities will be issued by the building inspector only upon the developer meeting requirements outlined in §§ 14-1604 through 14-1612 of this chapter, which includes obtaining approval of a drainage and sedimentation control plan, by the Mount Carmel Planning Commission. (Ord. #334, June 2008)

14-1606. Grading, vegetation, drainage, and erosion and sedimentation control plans required. A grading, vegetation, drainage, and erosion and sedimentation control plan, for convenience defined in §§ 14-1603 as a Drainage and Sedimentation Control Plan (DSCP), shall be required for all:

- (1) Developments, subdivisions, or construction activities involving one (1) or more acres; or
- (2) Three (3) adjacent lots or more (unless such lots are part of a subdivision with an approved DSCP); or
- (3) Less than one (1) acre if that construction activity is part of a larger common plan of development or sale that would disturb one (1) acre or more, except as exempted in §§ 14-1604(2) and (3) of this chapter.

A DSCP or BMP shall be required for all commercial construction or renovation, or any multi-family residential facility involving three (3) or more units that includes earth moving activity. If necessary to protect the health and safety of the people, the building inspector and/or planning commission may, at its discretion, require a drainage and sedimentation control plan for any development or renovation under one (1) acre, or subdivision with less than three (3) adjacent lots, or multi-family residential development under three (3) units. (Ord. #334, June 2008)

14-1607. Plan requirements. The drainage and sediment control plan shall be prepared and designed and certified by an engineer and/or surveyor licensed in the State of Tennessee. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and the potential for off-site damage. The plan shall be a 1 = 100 or smaller scale, topographic base map of the site which extends a minimum of five hundred feet (500') beyond the limits of the proposed development and includes at least the following:

- (1) Project description. Briefly describe the intended project and proposed land disturbing activity, including number of units and structures to be constructed and infrastructure required.

- (2) Contour intervals of five (5) or less showing present conditions and proposed contours resulting from land disturbing activity.
- (3) All existing drainage ways, including ntermittent and wet-weather. Include any designated floodways or flood plains.
- (4) Existing land cover.
- (5) Approximate limits of proposed clearing, grading and filling.
- (6) Delineation of all existing drainage areas contributing runoff to the site. Amount of existing stormwater discharged by each of the contributing areas. Amount of existing stormwater entering and leaving any portion of the site and location that stormwater enters or leaves the site. The appropriate calculations for making these determinations shall be included with the plan submission.
- (7) Description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.
- (8) Location, size and layout of proposed stormwater and sedimentation control improvements.
- (9) Proposed drainage network. The plan shall illustrate the proposed means for transporting all stormwater from its point of origin, through the site and to an adequate outfall.
- (10) Proposed drain tile or waterway sizes and plan and profile views of all proposed drainage structures, including ditches and swales.
- (11) Approximate flows leaving site after construction and incorporating water runoff mitigation measures. The evaluation must include projected effects on property adjoining and down stream of the site and on existing drainage facilities and systems. The hydraulic calculations necessary to ensure adequately sized stormwater management structures and BMPs used must also be included.
- (12) The projected sequence of work represented by the grading, drainage and erosion and sedimentation control plans as related to other major items of construction.
- (13) Specific remediation measures to prevent erosion and sedimentation runoff, contamination by other pollutants and to meet approved standards as outlined in § 14-1609 of this chapter. Plans shall include detailed drawings for all control measures used; stabilization measures including vegetation and non-vegetative 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.
- (14) Specific details for the construction of the entrance to the site, for controlling erosion and road access points and for eliminating or keeping mud, sediment, and debris on Mount Carmel streets and public ways at a level acceptable to the building inspector. Mud, sediment, and debris brought onto streets and public ways must be removed by the end of the day by machine, broom or shovel to the satisfaction of the building inspector and/or Mount Carmel law enforcement officer. Failure to remove said sediment, mud or debris shall be deemed a violation of this chapter.

(15) Proposed stormwater management facilities. The location, size and layout of all proposed stormwater and layout of all stormwater management structures, including retention/detention facilities shall be illustrated on the plan. These facilities must be designed to meet or exceed the standards set forth in § 14-1609 and as required by § 14-1608. Engineering calculations for sizing each facility must be provided. A qualified engineer registered in the State of Tennessee must seal the plans and calculations pertaining to permanent stormwater management facilities.

(16) Proposed structures. Location (to the extent possible) and identification of any proposed additional buildings, structures or development on the site.

(17) **Water Quality Standards.** The plan must include a determination that discharges will not cause or contribute to an in-stream exceedance of water quality standards.

(18) **Design storm:** The plan must be designed to control storm runoff from a 2 year 24 hour event except for discharges to exceptional Tennessee waters and/or impaired water which must be designed for the 5 year 24 hour event.

14-1607A Additional Plan Requirements for Discharges into Impaired or Exceptional Tennessee Waters. The applicant must include the information required by the section 5.3 of the current Tennessee Construction General Permit (TN CGP) for discharges into or upstream of impaired or exceptional Tennessee waters including but not limited to:

a. The plan must certify the erosion prevention and sediment controls used at the site are designed to control storm runoff generated by a 5 year, 24 hour storm event.

b. The plan must be prepared by a person who, at a minimum, has completed TDEC's Level II Design Principles for Erosion Prevention and Sediment Control for Construction Sites course. A copy of the certification or training record should be included with the plan. (The requirement in this sub-section is effective May 2013.)

c. The plan shall specify that inspections shall be performed twice weekly with a minimum of 72 hour intervals and conducted as specified in section 3.5.8 of the TN CGP.

d. The permittee shall certify whether or not planned and designed erosion prevention and sediment controls are installed and in working order. The certification must be the form and maintained as specified by the TN CGP.

e. In the event the permittee is found to be complying with the plan but is still contributing to the impairment of the receiving stream, the grading permit may be suspended until corrective BMPs are approved and installed.

f. For an on-site outfall in a drainage area of a total of 5 or more acres, a minimum temporary (or permanent) sediment basin volume that will provide treatment for a calculated volume of runoff from a 5 year, 24 hour storm and runoff from each acre drained, or equivalent control measures as specified in the Tennessee Erosion and Sediment Control Handbook, shall be provided

until final stabilization of the site. A drainage area of 5 or more acres includes both disturbed and undisturbed portions of the site or areas adjacent to the site, all draining through the common outfall. Where an equivalent control measure is substituted for a sediment retention basin, the equivalency must be justified. Runoff from any undisturbed acreage should be diverted around the disturbed area and the sediment basin and, if so, can be omitted from the volume calculation. Sediment storage expected from the disturbed areas must be included and a marker installed signifying a cleanout need.

g. The planning commission may require revisions to the DSCP if necessary to prevent a negative impact to legally protected state or federally listed aquatic fauna, their habitat, or the receiving waters.

14-1608. Stormwater system design and management standards.

(1) Stormwater design or BMP manual. (a) Adoption. The Town of Mount Carmel, Tennessee adopts as its stormwater design and Best Management Practices (BMP) manual the latest edition of the following publications, which are incorporated by reference in this chapter as is fully set out herein:

(i) TDEC Erosion and Sediment Control Manual.

(ii) Standard Specifications for Road and Bridge Construction,
Tennessee Department of Highways and Public Works.

(iii) TDEC Manual for Post Construction.

These manuals include lists of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each stormwater practice. As these manuals are updated, such updates are incorporated into the town's BMP manual unless expressly rejected by a majority vote of a duly constituted meeting of the planning commission. The Town of Mount Carmel, Tennessee 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. Other BMPs may be added or deleted upon approval of the planning commission. Site-specific BMP(s) may be approved by the building inspector.

(2) General performance criteria for stormwater management.

Unless granted a waiver or judged by the building inspector to be exempt, the following performance criteria shall be addressed for stormwater management at all sites: All site designs shall control the peak flow rates of stormwater discharge associated with design storms specified in this chapter or in the BMP manual and reduce the generation of post construction stormwater runoff to pre-construction levels. These practices should seek to utilize pervious areas for stormwater 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. To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the BMP manual. 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. Stormwater discharges from hot spots may require the application of specific structural BMPs and pollution prevention practices. Prior to or during the site design process, applicants for land disturbance permits shall consult with the building inspector and/or engineer to determine if they are subject to additional stormwater design requirements. The calculations for determining peak flows using sound engineering practices shall be used for sizing all stormwater facilities.

(3) Minimum control requirements. Stormwater designs shall meet the multi-stage storm frequency storage requirements as identified in this chapter and the BMP manual unless the planning commission has granted the applicant a full or partial waiver for a particular BMP. If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the planning commission may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

Stormwater management plan requirements. The stormwater management plan shall include sufficient information to allow the planning commission 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) Calculations. Hydrologic and hydraulic design calculations

for the pre-development and post-development conditions for the design storms specified in the BMP manual. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this chapter and the guidelines of the BMP manual. Such calculations shall include:

A description of the design storm frequency, duration, and intensity where applicable;

Time of concentration;

Soil curve numbers or runoff coefficients, including assumed soil moisture conditions;

Peak runoff rates and total runoff volumes for each watershed area;

Infiltration rates, where applicable;

Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;

Flow velocities;

Data on the increase in rate and volume of runoff for the design storms referenced in the BMP manual; and

Documentation of sources for all computation methods and field test results.

(b) **Soils information.** If a stormwater management control measure depends on the hydrologic properties of soils (eg, 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.

(c) **Maintenance and repair plan.** The design and planning of all 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. A permanent elevation benchmark shall be identified in the plans to assist in the periodic inspection of the facility.

(d) **Landscaping plan.** The applicant must present a detailed plan for management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. Where it is required by the BMP, this plan must be prepared by a registered engineer or architect licensed in Tennessee.

(e) **Maintenance easements.** The applicant must ensure access to the site for the purpose of inspection and repair by securing all the maintenance easements needed. These easements must be binding on the current property owner and all subsequent owners of the property and must be properly recorded in the land record.

(f) **Maintenance agreement.** (i) Maintenance agreements will apply to all stormwater drainage facilities including but not limited to ditches, swales, ponds, rip-rap and the like. Permanent stormwater management facilities must be clearly marked on the plat of record including a notation that these stormwater facilities are permanent, that they must be maintained and may not be filled, altered or otherwise changed.

(ii) The owner of property to be served by a permanent on-site stormwater management facility must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owner and all subsequent property owners.

(iii) The maintenance agreement shall: (A) Assign responsibility for the maintenance and repair of the stormwater facility to the owner of the property upon which the facility is located (in the case of subdivisions, permanent stormwater maintenance facilities shall be jointly owned by all owners of lots in the subdivision) and be recorded as such on the plat for the

property by appropriate notation.

(B) Provide for an inspection by the property owner at the property owner's expense upon direction of the town for the purpose of documenting maintenance and repair needs and ensure compliance with the purpose and requirements of this chapter. The property owner will arrange for this inspection to be conducted by a registered professional engineer licensed to practice in the State of Tennessee who will submit a sealed report of the inspection to the Town of Mount Carmel, Tennessee. The maintenance agreement shall also grant permission to the town to enter the property at reasonable times and to inspect the stormwater facility to ensure that it is being properly maintained.

(C) Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, grass cuttings and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other stormwater facilities. It shall also provide that the property owner shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the BMP manual.

(D) Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the Town of Mount Carmel, Tennessee.

(E) Provide that if the property is not maintained or repaired with the prescribed schedule, the Town of Mount Carmel, Tennessee 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 town's cost of performing the maintenance shall be a lien against the property.

(iv) The municipality shall have the discretion to accept the dedication of any existing or future stormwater management facility, provided such facility meets the requirements of this chapter and includes adequate and perpetual access and sufficient areas, by easement or otherwise, for inspection and regular maintenance. Any stormwater facility accepted by the municipality must also meet the municipality's construction standards and any other standards and specifications that apply to the particular stormwater facility in question. (Ord. #334, June 2008)

14-1609. Plan must contain measures to meet approved standards. The drainage and sedimentation control plan shall contain measures that will ensure development, construction or site work will meet or exceed the following standards:

The development fits within the topography and soil conditions in a manner that

allows stormwater and erosion and sedimentation control measures to be implemented in a manner satisfactory to the Mount Carmel Planning Commission. Development shall be accomplished so as to minimize adverse effects upon the natural or existing topography and soil conditions and to minimize the potential for erosion.

Plans for development and construction shall minimize cut and fill operations. Construction and development plans calling for excessive cutting and filling may be refused a permit by the Mount Carmel Planning Commission if it is determined that the land use permitted by the applicable zoning district could be supported with less alteration of the natural terrain.

During development and construction, adequate protective measures shall be provided to minimize damage from surface water to the cut face of excavations or the sloping surfaces of fills. Fills shall not encroach upon natural watercourses, their flood plains, or constructed channels in a manner so as to adversely affect other properties.

Pre-construction vegetation ground cover shall not be removed, destroyed, or disturbed more than twenty (20) days prior to grading or earth moving. No work shall occur until perimeter sedimentation and erosion control devices are in place to the building inspector's satisfaction.

Developers shall be responsible upon completion of land disturbing activities to leave slopes and developed or graded areas so that they will not erode. Such methods include, but are not limited to, re-vegetation, mulching, rip-rapping or gunniting, and retaining walls. Bank cuts and grades should not exceed a 2 to 1 slope without use of a retaining wall and must be properly covered with mulch and vegetation. Regardless of the method used, the objective is to leave the site as erosion and maintenance-free as is practical.

Stormwater management facilities shall be designed and constructed to mitigate the increase in storm water runoff resulting from the development. The facilities shall reduce the post-construction runoff rate to the pre-construction runoff rate for the 2-year and 10-year storm frequencies. The planning commission may require designs based on larger storm events on a case-by-case. The facilities shall also be equipped with an emergency spillway or other such device capable of accommodating the 100-year storm event and preventing failure of the facility. A staged outlet box structure is a preferred method for controlling the rate of stormwater discharge (see § 14-1608).

Discharges from sedimentation basins or traps must be through piping, liners, rip-rap or properly grassed channels so that the discharge does not cause erosion.

All grading, vegetation, drainage, stormwater, erosion and sedimentation control mitigation measures shall conform to any or all best management practices unless otherwise directed by the building inspector.

(9) Sedimentation basins (debris basins, desalting basins, or silt traps) and other drainage and sedimentation control measures shall be installed in conjunction with initial work and must be in place and functional prior to the initial grading operations. These

measures must be maintained throughout the development process. Sediment basins and/or silt traps may be temporary, but shall not be removed without the approval of building inspector.

(10) Damage to vegetation on stream banks or waterways (those not regulated in other chapters of this code) shall be minimized within five

feet (5') of each bank, except as necessary for the installation of utilities, development of roads, or construction of retention ponds and related drainage improvements.

(11) Land shall be developed to the extent possible in increments of workable size that can be completed in a single construction season. Erosion and sedimentation control measures shall be coordinated with the sequence of grading development and construction operations. Control measures such as berms, interceptor ditches, terraces, and sediment and silt traps shall be put into effect prior to any other stage of development.

(12) The permanent vegetation shall be installed on the construction site as soon as utilities are in place and final grades are achieved. However, without prior approval of an alternate plan by the Mount Carmel Planning Commission, permanent or temporary soil stabilization must be applied to disturbed areas within seven (7) days from substantial completion of grading and where disturbed areas will remain unfinished for more than thirty (30) calendar days.

(13) Retention facilities and drainage structures shall, where possible, use natural topography and natural vegetation. In lieu thereof, these structures shall have planted trees and vegetation such as shrubs and permanent ground cover on their borders. Plant varieties shall be those sustainable in a drainage way environment or as may be outlined in best management practices. Woody material, such as trees, shall be kept from encroaching on the dam. Utilities shall not be constructed through the stormwater control device and must be accessible without disturbing the device.

(14) In many situations, retention facilities and drainage structures need to be fenced in order to protect public safety. The Mount Carmel Planning Commission may require fencing for any basin or structure. When the planning commission requires fencing, the following specifications apply. Alternate fencing plans may be considered when requested by the developer, residents, or if the planning commission feels some other form of fencing is more appropriate for the site:

- (a) A minimum height of six feet (6');
- (b) Line post must be one and seven-eighths (1 7/8) diameter, sixteen (16) gauge;
- (c) Fence must be chained link of a minimum of nine (9) gauge, or approved alternative;
- (d) A lockable access gate of a minimum width of twelve feet (12') must be provided to allow access by equipment and machinery as

needed for maintenance.

(15) Drainage and sedimentation control plans must meet minimum requirements established in Tennessee Code Annotated as follows:

- (a) Name of applicant;
- (b) Business or residence address of applicant;
- (c) Name and address of owners of property involved in activity;
- (d) Address and legal description of property and names of adjoining property owners;
- (e) Name(s) and address(es) of contractor(s), if different from applicant, and any subcontractor(s) who shall undertake the land disturbing activity and who shall implement the drainage and sedimentation control plan;
- (f) A brief description of the nature, extent, and purpose of the land disturbing activity;
- (g) Proposed schedule for starting and completing project.

(16) For an outfall in a drainage area of a total of ten (10) or more acres, a temporary (or permanent) sediment basin that provides storage for a calculated volume of runoff from a two (2) year, twenty-four (24) hour storm and runoff from each acre drained, or equivalent control measures, shall be provided until final stabilization of the site. Where equivalent control measure is substituted for a sediment retention basin, the equivalency must be justified to the town and TDEC. Runoff from any undisturbed acreage should be diverted around the disturbed area and the sediment basin. Diverted runoff can be omitted from the volume calculation. Sediment storage expected from the disturbed areas must be included and a marker installed signifying the need for cleanout of the basin.

(17) Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality. (Ord. #334, June 2008)

14-1610. Priority construction sites. Priority construction sites are those adjacent to, around, or immediately upstream of waters the state recognizes as impaired (for siltation) or as high quality waters. Prior to any grading or other construction activity at such sites, a preconstruction meeting between the construction site owner/operators and town staff will be required at the site.

These sites, if any, will be inspected at least once monthly by town staff. (Ord. #334, June 2008)

14-1611. Buffers.

a. Water quality buffers. 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. Every attempt should be made for development and redevelopment activities not to take place within the buffer zone. Buffer width depends on the size of a drainage area and will be measured from the top of the stream bank.

(1) Streams or other waters with drainage areas less than 1 square mile will require buffer widths of 30 feet minimum.

(2) Streams or other waters with drainage areas greater than 1 square mile will require buffer widths of 60 feet minimum. The 60 feet criteria 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 30 feet at any measured location. This averaging will be permitted only in those instances where geographic features; size, including total width, of the site; or other similar features preclude maintaining the 60 foot buffer throughout the project. A determination that averaging is required may not be based solely on the difficulty or cost associated with maintaining the required buffer width but must include criteria such as type of project, existing land use and/or physical conditions that preclude use of these practices.

(3) For discharges into impaired or high quality waters. As required by the TDEC construction site permit, a sixty foot (60') natural riparian buffer zone adjacent to the receiving stream shall be preserved to the maximum extent possible during construction activities at the site. This buffer shall be designed and maintained as prescribed by TDEC.

b. Property line buffer. Detention basin and culvert outlets on level ground will terminate no less than ten feet (10' from the property line into a level spreader and be lined with rip-rap, heavy vegetation, or other approved methods to slow discharged waters. Outlets terminating on sloping ground will terminate as follows:

<u>From property line</u>	
<u>minimum feet</u>	<u>Slope</u>
15	10% or less
25	11-20%
35	21-30%
Not permitted	Greater than 30%

(Ord. #334, June 2008)

14-1612. Permanent stormwater management facilities.

Installation of permanent stormwater management facilities shall occur after the site has been adequately stabilized with permanent vegetation. Permanent stormwater management facilities must be clearly marked on the plat of record including a notation that these stormwater facilities must be maintained, as specified in the maintenance agreement (§ 14-1608(4)(f)) above and that they are permanent and may not be filled, altered or otherwise changed. The development will not be granted final approval (bond will not be released) until:

- (1) As-built plans for each individual facility, sealed by the engineer

of record, have been submitted;

(2) Each facility has been inspected by the building inspector.
(Ord. #334, June 2008)

14-1613. Plan submitted by owner/developer. The owner or the developer who is the owner's authorized representative must submit the DSCP at the expense of the owner and/or developer. (Ord. #334, June 2008)

14-1614. Plan submitted to building inspector. Six (6) copies of the drainage and sedimentation control plan shall be submitted directly to the building inspector at least fifteen (15) days prior to consideration. Any insufficiencies, violations noted or comments will be directed back to the applicant/developer. The plan will then be revised as required prior to being presented to the Mount Carmel Planning Commission. (Ord. #334, June 2008)

16-1614A. Re-Submittal of DSCP. (1) The owner/developer shall be required to re-submit pertinent sections of the DSCP under the following circumstances.

a. whenever there is a change in the scope of the project, which would be expected to have a significant effect on the discharge of pollutants to the waters of the state and which have not been otherwise addressed in the DSCP information previously submitted (eg. The size of the project changes to include grading of acreage not previously shown).

b. whenever inspections or investigations by site operators, local, state, or federal officials/inspectors indicate the control(s) designed/constructed is/are proving ineffective in eliminating or significantly minimizing pollutants.

c. whenever the owner/developer change the design of the project to include adding or reducing the number, changing the size of or of introducing new control devices. (Note: minor changes as determined by the Town Engineer and/or Building Inspector may be exempt from this requirement).

(2) The Town Engineer and/or Building Inspector will determine how much of the DCSP needs to be re-submitted. The Planning Commission will consider appeals based on information submitted at least 3 working days before regular or called meetings.

(3) Re-submittals will be IAW paragraphs 14-1613 and 14-1614 of this section.

14-1615. Speedy review of plan.

(A) The Mount Carmel Planning Commission shall review drainage and sedimentation control plans as soon as possible while still allowing for a thorough evaluation of the problems and mitigation measures identified and addressed. The planning commission will take final action on plans submitted no later than 60 days after the initial consideration date by the planning commission. The sixty days may be extended when there is a

holiday or an unexpected interceding event that would close municipal offices and thus affect the normal computation of the sixty-day period, in which case the plat shall be approved or disapproved after the interrupted sixty-day period at the next regularly scheduled meeting of the commission.

(B) The applicant may waive the time requirement in this section and consent to an extension or extensions of the applicable time period.

(C) In this regard, road frontage and similar plans which do not require or minimally require excavation or underground utility construction submitted 15 or more days prior to a regular planning commission meeting, shall be placed on the planning commission agenda for the next scheduled meeting for initial consideration. Plans which require new streets and/or major underground utility construction shall be submitted at least 30 days prior to a planning commission date to be considered at the next meeting and shall contain all of the information required in sections 14-1607 through 14-1609. If not complete, the plan may be returned with an explanation and not considered until resubmitted with correction(s) at least 30 days before a regular planning commission meeting date. Complete plans submitted/resubmitted with correction(s) less than 30 days before a regular planning commission meeting date, will be placed on the planning commission agenda at the second following regular meeting date for initial consideration (if staff review is completed in time for the next meeting, the plan may be placed on the agenda for that meeting) Note that the Planning Commission meets regularly once a month.

14-1616. Grading permit and bond. Following approval of the drainage and sedimentation control plan by the planning commission, a limited grading permit for the erosion and sediment control devices only shall be obtained from the building inspector. After these devices are installed, inspected and approved, an unlimited grading permit must be obtained for other site work.

(1) Prior to issuing the permit, the Town of Mount Carmel, Tennessee may, at its discretion, require the submittal of a performance security or performance bond in order to ensure that the stormwater practices are installed by the permit holder as required by the approved stormwater drainage and sediment control plan. The amount of the installation performance security or performance bond shall be the total estimated construction cost of the structural BMPs approved under the permit plus five percent (5%). 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 Town of Mount Carmel, Tennessee. Alternatively, the Town of Mount Carmel, Tennessee shall have the right to calculate the cost of construction cost estimates.

(2) The performance security or performance bond shall be released in full only upon 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 chapter. The Town of Mount Carmel, Tennessee will make a final inspection of the structural BMP to ensure that it is in compliance with the approved plan and the provisions of this chapter. 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 Town of Mount Carmel, Tennessee. (Ord. #334, June 2008)

14-1617. Building inspector and/or town designee may require additional protective measures. The building inspector and/or the town's designee have the authority at their discretion to require ground cover or other remediation measures preventing stormwater, erosion and sediment run-off, if either determines after construction begins that the plan and/or implementation schedule approved by the planning commission does not adequately provide the protection intended in the ordinance comprising this chapter and in the approval issued by the commission. Additional protective measures required by the building inspector and/or the town designee that fall under the authority of the planning commission are subject to appeal under the procedures outlined in § 14-1635 of this chapter. (Ord. #334, June 2008)

14-1618. Retention/detention facilities and drainage structures maintained. All on-site retention basins and drainage structures shall be properly maintained by the owner/developer during all phases of construction and development so that they do not become a nuisance. Nuisance conditions shall include improper storage resulting in uncontrolled runoff and overflow; stagnant water with concomitant algae growth, insect breeding, and odors; discarded debris; and safety hazards created by the facilities operation. The Mount Carmel Planning Commission has the responsibility to see that the retention basin is properly maintained and operational. The developer shall provide the necessary permanent easements to provide town personnel access to the retention facilities and drainage structures for periodic inspection. A right-of-way to conduct such inspections shall be expressly reserved in the permit. (Ord. #334, June 2008)

14-1619. Improperly maintained retention/detention facilities and drainage structures a violation. The building inspector and/or town designee shall periodically monitor and inspect the care, maintenance and operation of retention facilities and drainage structures during and after construction and development. Facilities found to be a nuisance as defined in the Mount Carmel Municipal Code are in violation of the ordinance comprising this chapter and are subject to fines of fifty dollars (\$50.00) per day with each additional day considered a separate violation. (Ord. #334, June 2008)

14-1620. Town may take ownership of retention facilities and drainage structures. The Mount Carmel Board of Mayor and Aldermen shall have the

authority to accept or take ownership of retention facilities and drainage structures on behalf of the town provided that the board and commission feel the public interest is best served by the town providing on-going responsibility for maintenance and upkeep. In such cases, approval of the transfer of ownership shall only occur after the planning commission and the BMA have received an inspection report from the building inspector, with the possible technical assistance of the Hawkins County extension agent and/or soil conservationist, that certifies said devices have been properly constructed and landscaped, are operating effectively, and appropriate safety and protective measures have been implemented or constructed. Transfer of ownership to the town shall occur at or near the completion of the subdivision or development and the developer must provide fee simple title to the property on which the retention/detention basin or drainage structure is located and/or any necessary easements allowing the Town of Mount Carmel access to the facilities for routine maintenance and care. (Ord. #334, June 2008)

14-1621. Technical assistance. Through a memorandum of understanding with the Town of Mount Carmel, the Hawkins County Soil Conservation District staff and the Hawkins County extension agent are available for consultation and advice concerning stormwater management and erosion and sedimentation problems to all persons planning to develop land within the town or under the subdivision jurisdiction of the Mount Carmel Planning Commission. Tennessee Department of Environment and Conservation (TDEC) staff may also be consulted. The planning commission and building inspector will use these consultants as needed to review drainage and sedimentation control plans prior to approval and provide assistance to the building inspector with inspections. (Ord. #334, June 2008)

14-1622. Building inspector and/or designee responsible for providing safeguards in projects less than one (1) acre or utilizing less than three (3) lots. Projects undertaken within the city limits of Mount Carmel that are not subject to review and approval of the Mount Carmel Planning Commission shall fall under the responsibility of the Mount Carmel Building Inspector and/or the town designee to see that the measures required in this chapter to protect the health and safety of the people and to protect the quality of surface waters are carried out as needed. The building inspector shall require reasonable drainage, erosion and sedimentation control measures as part of the grading permit process outlined in § 14-1605. Under no conditions shall the building inspector or town designee allow silt or sedimentation to enter drainage ways or adjoining properties or allow stormwater flows to adversely impact adjoining properties. Denuded areas, cuts and slopes shall be properly covered within the same schedule as directed in § 14-1607(14) of this chapter. (Ord. #334, June 2008)

14-1623. Grading permit also required for any project on less than one (1) acre involving grading, filling, or excavation. A grading permit is also

required for any development or construction activity, except as exempted in § 14-1604 and those activities exempted from the definition of land disturbing activity, on property one (1) acre or less. However, said development and construction activities do not require a formal drainage and sedimentation control plan unless specifically requested by the planning commission. The building inspector shall require that all grading, vegetation, drainage, stormwater, erosion and sedimentation control measures necessary shall be implemented, shall conform to any and all best management practices, and shall meet the objectives established in this chapter. Developers must also present to the building inspector a description of the measures that will be taken to address the requirements established in § 14-1607 of this chapter avoiding mud, sediment, rock and debris on public ways, streets, and/or streams. These measures must be addressed prior to the building inspector issuing a grading permit. Measures preventing excess runoff and erosion must be in place prior to the commencement of grading and/or excavation. (Ord. #334, June 2008)

14-1624. Existing developed properties with drainage, erosion and sediment concerns. Properties of any size within the city limits of the Town of Mount Carmel that have been developed or in which land disturbing activities have previously been undertaken are subject to the following requirements:

- (1) Denuded areas still existing must be covered as specified in best management practices with appropriate vegetation and/or mulch;
- (2) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed;
- (3) Drainage ways shall be properly covered in vegetation or secured with stones, etc. to prevent erosion;
- (4) Junk, rubbish, etc. shall be cleared of drainage ways to help minimize possible contamination of stormwater runoff;
- (5) Stormwater runoff in commercial areas, office or medical facilities, and multi-family residences of three (3) or more units shall be controlled to the extent reasonable to prevent pollution of local waters. Such control measures shall include, but not be limited to, the following:
 - (a) Oil skimmer/grit collector structure. These structures are designed to skim off floatables out of parking lots and other impervious surfaces, and allow solids of debris and sediment to settle before being discharged in a local waterway;
 - (b) Retention basins;
 - (c) Planting and/or sowing of vegetation;
 - (d) Rip-rapping, mulching, and other similar erosion control measures associated with local drainage ways. (Ord. #334, June 2008)

14-1625. Improvements required in existing development normally at owner's expense. Drainage and sediment control measures required in existing developed properties shall normally be undertaken at the property or business owner's expense. The board of mayor and aldermen,

however, at its discretion in circumstances in which board members feel the town's participation is essential to protecting the health and safety of residents and the water quality of Mount Carmel's drainage ways, may approve cost sharing needed drainage and sedimentation control measures. (Ord. #334, June 2008)

14-1626. Town may take responsibility for existing retention facilities and drainage structures. The Mount Carmel Board of Mayor and Aldermen may, on behalf of the town, take responsibility for existing retention facilities and drainage structures if the Mount Carmel Planning Commission so determines that the general public is better served when said facilities are under the long-term maintenance responsibility of the town. Facilities considered shall be accepted as outlined in § 14-1620 of this chapter. The Mount Carmel Planning Commission may also recommend to the board of mayor and aldermen that the town participate in making certain improvements to existing facilities in addition to accepting responsibility for their long-term maintenance and care if the commission feels said improvements are in the best interest of the general public. (Ord. #334, June 2008)

14-1627. Improvements needed at existing locations determined by the building inspector and/or town designee. Recommendations may come from the building inspector, soil conservation service, the agricultural extension office or other qualified personnel. Recommendations shall be:

- (1) Provided in writing to the property/business owner.
 - (2) Detailed as to specific actions required and why these actions are necessary.
 - (3) Made with a reasonable period of time for implementation.
- (Ord. #334, June 2008)

14-1628. Improvements required with existing developments subject to appeal. Improvements required by the building inspector and/or town designee as outlined in § 14-1626 of this chapter are subject to appeal by the property/business owners to the Mount Carmel Planning Commission as specified in § 14-1635. (Ord. #334, June 2008)

14-1629. Post construction. (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 Town of Mount Carmel, Tennessee is required before any performance security or performance bond will be released. The Town of Mount Carmel, Tennessee 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 Town of Mount Carmel, Tennessee.

(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 revegetated according to a schedule approved by the Town of Mount Carmel, Tennessee. 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.

(b) In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.

(3) Inspection of stormwater management facilities. Periodic inspections of facilities shall be performed as provided for throughout this document.

(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 two (2) years. These records shall be made available to the Town of Mount Carmel, Tennessee 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 Town of Mount Carmel, Tennessee, 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 Town of Mount Carmel, Tennessee shall notify, in writing, the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have three (3) 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 Town of Mount Carmel, Tennessee may take necessary corrective action. However, in emergency situations as determined by the building inspector or his designee (washout of facilities, excessive mud and/or silt on streets, adjacent properties or streams), time will be of the essence. If the responsible person does not provide immediate corrective action, the Town of Mount Carmel, Tennessee may initiate necessary action and charge the responsible person for same plus administrative/overhead charges. The cost of any action by the Town of Mount Carmel, Tennessee under this section plus an administrative/overhead charge of no less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00) for each incident shall be charged to the responsible party. (Ord. #334, June 2008)

14-1630. Illicit discharges. (1) Scope. This section shall apply to any illegal disposal including dumping and all water generated on developed or undeveloped land entering the municipality's separate storm sewer system.

(2) Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater including contamination of stormwater runoff from hot spots. 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) Individual residential car washing;
 - (xii) Natural riparian habitat or wet-land flows;
 - (xiii) Swimming pools (if de-chlorinated typically less than one (1) PPM chlorine);
 - (xiv) Fire fighting activities
 - (xv) Discharges from potable water sources
 - (xvi) Irrigation water
 - (xvii) Lawn watering

(xviii) Street water washing

(xix) Any other uncontaminated water source.

(b) Discharges specified in writing by the Town of Mount Carmel, Tennessee as being necessary to protect public health and safety;

(c) Dye testing is an allowable discharge if the Town of Mount Carmel, Tennessee has so specified in writing.

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

(b) 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 compliance with the provisions of this section.

(4) Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into stormwater, the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the Town of Mount Carmel, Tennessee in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the Town of Mount Carmel, Tennessee 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 five (5) years. (Ord. #334, June 2008)

14-1631. Monitoring, reports, and inspections. The building inspector and/or town designee, with the possible assistance of the soil conservationist and/or the county extension agent, shall make periodic inspections of the land disturbing activities, the stormwater management system installations and/or other

area for illicit discharges, and other activities requiring a grading permit to ensure compliance with the approved plan and Mount Carmel's best management practices. Inspections will evaluate whether the measures required in the drainage and sedimentation control plan and/or grading permit and undertaken by the developer are effective in controlling erosion. The right of entry to conduct such inspections shall be expressly reserved in the permit. If the building inspector and/or town designee determines that the permit holder has failed to comply with plan approval, the following procedures shall apply:

A notice from the building inspector and/or town designee shall be served on the permit holder either by registered or certified mail, delivered by hand to the permit holder or an agent or employee of the permitted supervising the activities, or by posting the notice at the work site in a visible location, that the permit holder is in non-compliance.

(1) The notice of non-compliance shall specify the measures needed to comply and shall specify the time within which such corrective measures shall be completed. The building inspector and/or town designee shall require a reasonable period of time for the permittee to implement measures bringing the project into compliance; however, if it is determined by the building inspector and/or town designee that health and safety factors or the damage resulting from non-compliance is extremely severe, immediate action may be required.

(2) If the permit holder fails to comply within the time specified, the permit may be subject to revocation. In addition, the permittee shall be deemed to be in violation of this chapter and thus shall be subject to the penalties provided in the ordinance comprising this chapter.

(3) In conjunction with the issuance of a notice of non-compliance or subsequent to the permittee not completing the corrective measures directed in the time period required, the building inspector or town designee may issue an order requiring all or part of the land disturbing activities on the site be stopped. The stop work order may be issued with or as part of the notice of non-compliance, or may be delivered separately in the same manner as directed in § 14-1628(1). (Ord. #334, June 2008)

14-1632. Mud/silt/debris/other pollutants in street/stream. The fact that mud, silt, debris or other pollutants has moved from the job site or existing developed/undeveloped properties to the street, stream or adjoining property either by man, mechanical means, or acts of God is prima facie evidence that the provisions of this chapter have been violated. If such occurs from separate, distinct places at least one hundred feet (100') apart, each will be a separate violation even though the property is owned by the same individual. Such violations may be subject to enforcement action as specified elsewhere herein.

1633. Certificate of occupancy not issued until compliance with plan verified. The building inspector will not issue a certificate of occupancy necessary to occupy any commercial or residential establishment until all aspects of the drainage and sedimentation control plan have been

completed, control devices constructed have been approved and accepted, and, if within a subdivision or commercial development, all paving, landscaping, and utilities, including street lighting if decorative lights are used, are approved and accepted. (Ord. #334, June 2008)

14-1634. Plan construction acceptance and bond release. Drainage and sedimentation control plan activities must be inspected and accepted by the building inspector and/or the town designee. If within a commercial or subdivision development, streets, sidewalks, curbs and alleys, landscaping, street lighting, water, sewer, and any installation of power, telephone, cable, and gas utilities must be approved and accepted by the appropriate official. All monitoring and regulatory authorities shall complete an approval and acceptance form before the building inspector releases the associated performance bond. The building inspector and/or town designee will sign a release on the approval and acceptance form as soon as all of the project criteria have been satisfied and approved. (Ord. #334, June 2008)

14-1635. Appeal of administrative action. Actions taken by the building inspector and/or town designee as authorized in this chapter are subject to review by the Mount Carmel Planning Commission provided an appeal is filed in writing with the chairman of the planning commission within thirty (30) days from the date any written or verbal decision has been made which the developer feels adversely affects his/her rights, duties or privileges to engage in the land disturbing activity and/or associated development proposed. Drainage and sediment mitigation actions required by the building inspector and/or town designee with existing properties or developments are also subject to appeal to the Mount Carmel Planning Commission provided that appeals are made in writing, within thirty (30) days of receiving formal notification to the commission chairman citing the specific reasons(s) the activity or activities required present a hardship and cannot be implemented. (Ord. #334, June 2008)

14-1636. Town clean up resulting from violations at developer/owner's expense. Town staff is authorized to take remedial actions to prevent, clean up, repair or otherwise correct situations in which water, sediment, rock, vegetation, etc., ends up on public streets and/or rights-of-way resulting from violations of this chapter where necessary drainage, erosion and sedimentation control measures have not been properly implemented. In such cases, the cost of labor, equipment, and materials used will be charged to the developer/owner in addition to a service charge of one hundred dollars (\$100.00) per hour and an administrative/overhead charge of not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00) per incident. The town will invoice the developer/owner directly, and payment shall be received within fourteen (14) days. Failure to pay for remedial actions taken by the town under this section may result in the town attorney filing a lien against the property involved in the action. (Ord. #334, June 2008)

14-1637. Penalties enforcement. (1) Remedies nonexclusive. The remedies provided for in this chapter are not exclusive and the designated enforcement officer may take any, all or any combination of these actions against a noncompliant owner. The designated enforcement officer is empowered to take more than one (1) enforcement action against any noncompliant owner that is in violation.

(2) Adoption of enforcement response plan. An enforcement response plan, including a schedule of civil penalties which may be assessed for certain specific violations or categories of violations, shall be established by resolution of the board of mayor and aldermen. Any civil penalty assessed to a violator pursuant to this section may be in addition to any other penalty assessed by a state or federal authority.

(3) Show cause hearing. An owner that has been issued an assessment or order under this chapter may submit a written request to appear before the designated enforcement officer and show cause why the proposed enforcement action should not be taken. Notice of hearing shall be served by the designated enforcement officer specifying the time and place for the hearing. The notice of hearing shall be served personally or by certified mail, return receipt requested, at least ten (10) days prior to the hearing. A show cause hearing shall not be a bar against or prerequisite for taking any other action against the owner, but shall be a prerequisite for issuing any administrative order or assessment of civil penalties, except as provided by subsection (7) of this section relating to emergency suspensions.

(4) Appeals process. (a) Except in emergency suspensions pursuant to subsection (7) of this section relating to emergency suspensions, any owner against whom a penalty has been assessed for a violation of this chapter, a permit denied, revoked, suspended, against whom the designated enforcement officer has issued an order or who is otherwise aggrieved by an act of the designated enforcement officer shall have thirty (30) days after having been served with the assessment or order, or after a permit has been denied, revoked or suspended, or such person has been aggrieved to appeal the action by filing with the recorder a written petition for appeal setting forth the grounds and reasons for the appeal. The failure to serve the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 within thirty (30) days with the written petition for appeal is jurisdictional, and if an appeal is not taken within the thirty (30) days the matter shall be final.

(b) Upon receipt of a written petition from an aggrieved owner under this chapter but not less than fifteen (15) days after notice of a matter to be appealed, the recorder shall give the petitioner thirty (30) days' written notice of the time and place of the hearing, but in no case shall such hearing be held more than sixty (60) days from the receipt of the written petition unless the designated enforcement officer and the petitioner agree to a postponement.

(c) An appeal to the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 shall be a de novo review.

(d) Hearings before the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 shall be conducted in accordance with the following:

(i) The presence of at least three (3) members of the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 shall be necessary to conduct a hearing.

(ii) A verbatim record of the proceedings shall be taken, together with the findings of fact and conclusions of law. The transcript so recorded shall be made available to any party upon prepayment of a charge adequate to cover the costs of preparation.

(iii) In connection with the hearing, subpoenas shall be issued in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the chancery court shall have jurisdiction, upon application of the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 or the designated enforcement officer, to issue an order requiring such person to appear and testify or produce evidence as the case may require, and any failure to obey such order of the court may be punished as contempt under law.

(iv) On the basis of the evidence produced at the hearing, the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 shall make findings of fact and conclusions of law and enter such decisions and orders as in its opinion will best further the purposes of this chapter and shall give written notice of such decisions and orders to the petitioner. The order so issued shall be issued no later than thirty (30) days following the close of the hearing

(v) The decision of the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 shall become final and binding on all parties unless appealed as provided in subsection (11) of this section relating to judicial review.

(vi) Any person to whom an emergency order is directed pursuant to subsection (7) of this section relating to emergency suspensions shall comply therewith immediately but on petition to the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 shall be afforded a hearing not later than three (3) working days from the receipt of such petition.

(e) The following shall not be applicable to emergency suspensions pursuant to subsection (7) of this section relating to emergency suspensions:

(i) If a written petition of appeal is filed by an owner, the

effective date of the matter properly appealed shall be stayed until a decision is announced by the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635; provided, however, that in no case shall such a stay exceed a period of ninety (90) days, except as provided in subsection (10) of this section relating to additional stay, from the date of receipt of a written petition to the designated enforcement officer to appeal as set out in this section.

(ii) If a continuance of a hearing before the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 is requested by an owner, no additional time shall be added to the limitations of subsection (i) of this subsection.

(iii) If the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 is not able, for good cause, to hold a hearing within the sixty (60) day limit, the stay shall be extended by the number of days such period is exceeded.

(iv) If a continuance is requested by the designated enforcement officer, the time of the stay shall be extended by the same number of days as the continuance.

(5) Civil penalties. (a) The designated enforcement officer may recover reasonable attorney's fees, court costs and other expenses associated with enforcement of this chapter and the cost of any actual damages incurred by the town.

(b) Civil penalties assessed hereunder are intended to be remedial to protect the public health, safety and welfare of the public by protecting the waters of the state and adjoining properties. When a civil penalty is assessed to disgorge undeserved profits, or reimburse the town or a private party for fixing damages caused by the noncompliance by the owner, such penalty may be imposed without regard to whether the owner corrects or remedies the violation. Otherwise, when a civil penalty is assessed against an owner found in violation such assessment should be conditioned on providing the owner time to correct or remedy the violation in which event the penalty shall be suspended pending future compliance. If the owner fails or refuses to remedy the violation, the penalty may be imposed per diem until the violation is corrected or remedied. In determining the amount of the penalty to assess, the designated enforcement officer shall consider the factors listed in enforcement response plan and may consider all relevant circumstances, including but not limited to the extent of harm caused by the violation, the magnitude and duration of the violation, the compliance history of the owner and any other factor provided by law.

(6) Method of assessment for non-compliance. Civil penalties shall be assessed in the following manner:

(a) The designated enforcement officer may issue an assessment against any owner responsible for the violation;

(b) Any person against whom an assessment has been issued may secure a review of said assessment by filing with the designated

enforcement officer a written petition setting forth the grounds and reasons for their objections and asking for a hearing on the matter before the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635. If a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the owner shall be deemed to have consented to the assessment and it shall become final;

(c) If any assessment becomes final because of an owner's failure to appeal the municipality's assessment, the designated enforcement officer may apply to the appropriate court for a judgment and seek execution of said judgment, and the court in such proceedings shall treat a failure to appeal such assessment as a confession of judgment in the amount of the assessment. Upon final order, if payment is not made, the designated enforcement officer may issue a cease and desist order.

(d) In assessing a civil penalty, the following factors may be considered:

(i) The harm done to the public health or the environment;

(ii) Whether the civil penalty imposed will be substantial economic deterrent to the illegal activity;

(iii) The economic benefit gained by the violator;

(iv) The amount of effort put forth by the violator to remedy this violation;

(v) Any unusual or extraordinary enforcement costs incurred by the municipality;

(vi) The amount of penalty established by ordinance or resolution for specific categories of violations; and

(vii) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(e) Damages may also include any expenses incurred in investigating and enforcing the requirements of this chapter; removing, correcting and terminating any discharge or connection; and also compensation for any actual damages to the property or personnel of the town caused by the violation, and any reasonable expenses incurred in investigating and enforcing violations of this chapter.

(7) Emergency suspensions. (a) Under this chapter, if the designated enforcement officer finds that an emergency exists imperatively requiring immediate action to protect the public health, safety or welfare; the health of animals, fish or aquatic life, or a public water supply; the designated enforcement officer may, without prior notice, issue an order reciting the existence of such an emergency and requiring that such action be taken as the designated enforcement officer deems necessary to meet the emergency, including suspension of a permit issued under this chapter.

(b) Any owner notified of a suspension shall immediately

eliminate the violation. If an owner fails to immediately comply voluntarily with the suspension order, the designated enforcement officer may take such steps as deemed necessary to remedy the endangerment. The designated enforcement officer may allow the owner to recommence when the owner has demonstrated to the satisfaction of the designated enforcement officer that the period of endangerment has passed.

(c) An owner that is responsible, in whole or in part, for any discharge or connection presenting imminent danger to the public health, safety or welfare; the health of animals, fish or aquatic life, or a public water supply; shall submit a detailed written statement, describing the causes of the harmful discharge or connection and the measures taken to prevent any future occurrence, to the designated enforcement officer prior to the date of any show cause hearing under subsection (3) of this section relating to show cause hearing.

(d) Nothing in this chapter shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(e) Any owner whose permit or operation is suspended pursuant to this section, on petition to the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635, shall be afforded a hearing as soon as possible, but in no case shall such hearing be held later than three (3) working days from the receipt of such a petition by the designated enforcement officer.

(8) Financial assurance. (a) A performance bond which guarantees satisfactory completion of construction work related to stormwater management facilities, channel protection, vegetative buffers and any best management practices shall be required.

(b) Performance bonds shall name the Town of Mount Carmel as beneficiary and shall be guaranteed in the form of a surety bond, cashier's check or letter of credit from an approved financial institution or insurance carrier. The surety bond, cashier's check or letter of credit shall be provided in a form and in an amount to be determined by the designated enforcement officer. The actual amount shall be based on submission of plans and estimated construction, installation or potential maintenance and/or remediation expenses.

(c) The recorder may refuse brokers or financial institutions the right to provide a surety bond, cashier's check or letter of credit based on past performance, ratings of the financial institution or other appropriate sources of reference information.

(d) The designated enforcement officer may decline to approve a plan or issue or reissue a permit to any owner who has failed to comply with any section of this chapter, a permit or order issued under this chapter unless such owner first files a satisfactory bond, payable to the recorder or town, or in a sum not to exceed a value determined by the designated enforcement officer to be necessary to achieve consistent compliance.

(9) Injunctive relief. When the designated enforcement officer finds that an owner has violated or continues to violate any section of this chapter, or a permit or order issued under this chapter, the designated enforcement officer

may petition the appropriate court, through the town's attorney, for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the permit, order or other requirement imposed by this chapter on activities of the owner. The designated enforcement officer may also seek such other action as is appropriate for legal and equitable relief, including a requirement for the owner to conduct environmental remediation. A petition for injunctive relief shall not be a bar against or a prerequisite for taking any other action against an owner.

(10) Additional stay. The Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 may grant an additional continuance and stay beyond that set out in subsection (4) of this section relating to appeals process upon the request of an owner/operator and upon the posting of an appeal bond payable to the recorder or town in a sum to be determined by the designated enforcement officer as necessary to protect the interests of the town.

(11) Judicial review. The alleged violator may appeal a decision of the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8.

SECTION II. The violation of any provision of this chapter shall be punishable by a civil penalty pursuant to Tennessee law, and more particularly part 11 relating to stormwater management of Tennessee Code Annotated, title 68, chapter 221, § 68-221-1106(a), of not less than fifty dollars (\$50.00) or more than five thousand dollars (\$5,000.00) per day for each day of violations. Each day of violation may constitute a separate violation. This penalty may be determined by application of the enforcement response plan as defined in subsection 14-1637(2) relating to adoption of enforcement response plan and costs for each separate violation. (Ord. #334, June 2008, as replaced by Ord. #10-339, April 2010).

SECTION III. That this ordinance shall take effect from and after the date of its passage and publication, as the law directs, the public welfare of the Town of Mount Carmel, Tennessee requiring it.

Gary Lawson, Mayor

ATTEST:

Marion Sandidge, Recorder

FIRST READING	AYES	NAYS	OTHER
ALDERMAN CHRISTIAN		✓	
ALDERMAN DEBORD	✓		
ALDERMAN FROST		✓	
ALDERMAN ROBERTS		✓	
ALDERMAN WHEELER	✓		
VICE MAYOR WOLFE		✓	
MAYOR LAWSON	✓		
TOTALS	3	4	0

PASSED FIRST READING: failed 7-26-2011

SECOND READING	AYES	NAYS	OTHER
VICE-MAYOR CHRISTIAN			
ALDERMAN DEBORD			
ALDERMAN FROST			
ALDERMAN ROBERTS			
ALDERMAN WHEELER			
VICE MAYOR WOLFE			
MAYOR LAWSON			
TOTALS			

PASSED SECOND READING: _____

PUBLISHED ON: _____
 NEWSPAPER: Kingsport Times-News

Print - Close Window

Subject: Ordinance 11-362 (failed)
From: Marian Sandidge (mariansandidge@yahoo.com)
To: nancy.gibson@tennessee.edu;
Date: Wed, 27 Jul 2011 14:55:07

Nancy,
Please find attached failed Ordinance 11-362 from the Town of Mount Carmel.
Thank you,
Marian Sandidge, City Recorder
Town of Mount Carmel, Tennessee
423-357-7311