

RESOLUTION SPONSORS: _____ and _____

RESOLUTION NO. _____

A RESOLUTION ADOPTING REGULATIONS TO PROTECT WATER QUALITY IN THE UNINCORPORATED AREAS I N T H E U R B A N I Z E D A R E A O F BLOUNT COUNTY BY PROHIBITING, SUPPRESSING, AND PREVENTING THE CONTAMINATION OF STORM WATER BY ILLICIT DISCHARGE OF POLLUTANTS.

WHEREAS, Tenn. Code Ann. § 5-1-118(c) authorizes counties, by adoption of a resolution by two-thirds (2/3) vote of their respective legislative bodies, to exercise those powers granted to all or certain municipalities by Tenn. Code Ann. § 6-2- 201(22) and (23), with specified exceptions; and

WHEREAS, upon the adoption of said Resolution and pursuant to Tenn. Code Ann. § 6-2-201(22), Blount County became authorized to regulate all acts, trades, uses of property and all other things whatsoever detrimental, or liable to be detrimental, to unincorporated areas of the county and to exercise general police powers;

WHEREAS, Tenn. Code Ann. §§ 68-221-1101-1106 authorizes counties to adopt regulations for storm water discharges and contaminates in order to protect water quality in their respective unincorporated areas in the urbanized area of Blount County; and

ILLICIT DISCHARGE RESOLUTION

SECTION 1. Definitions.

Gray water - Non-industrial waste water generated from domestic processes such as dishwashing, laundry, bathing, etc.

Illicit discharge - Any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted in **Section 3 b.**

Municipal separate storm sewer system – (Also “MS4”.) As defined in 40 CFR §122.2, a MS4 is a conveyance or system of conveyances (e.g., roads with drainage systems, county streets, catch basins, gutters, ditches, manmade channels, or storm drains) that are:

- a. owned and operated by Blount County;
- b. designed or used for collecting or conveying stormwater;
- c. not a combined sewer; and
- d. not part of a publicly owned treatment works as defined in 40 CFR §122.2

Person - Any and all persons, including any individual, firm, partnership, entity, or association, and any municipal or private corporation organized or existing under the laws of this or any other state.

Pollutant hotspot – An area where the land use or activities may generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

Restaurant - An establishment or facility where food is prepared and sold.

Runoff - The water resulting from precipitation that is not absorbed by the soil.

Sanitary sewer - A system of underground conduits that collect and deliver sanitary wastewater to a wastewater treatment plant.

Sanitary wastewater - Wastewater from toilets, sinks and other plumbing fixtures.

Sewage - Human wastes carried by water from residences, buildings, industrial establishments or other places, together with such industrial wastes, stormwater or other water as may be present; or any substance discharged from a sanitary sewer collection system.

Sinkhole- (1.) A naturally occurring depression where drainage collects in the earth's surface that is a minimum of two (2) feet deep. These depressions are typically denoted as closed contours. (2.) A hole, fissure or other opening in the ground, often underlain with limestone, dolomite or other rock formation that provides for and is being designated as a natural conduit for the passage of stormwater.

Wastes, industrial/commercial - Liquid or other wastes resulting from any process of industry, manufacture, trade or business, or from the development of any natural resources.

Wastes, other - Discarded brush; sawdust; shavings; leaves; lawn clippings; animal wastes; used or previously applied lime; garbage; trash; refuse, used paper, paper products, plastic containers, or metal containers; ashes, offal, discarded tar; discarded paint; discarded or uncontained solvents; used, discarded, or spilled petroleum products, antifreeze, motor vehicle fluids; used or discarded gas tanks or chemicals; or any other used, uncontained, or unpackaged, or disposed of materials which may discharge to or otherwise enter the municipal separate storm sewer system.

SECTION 2. Purpose.

The Board of County Commissioners of Blount County, Tennessee finds that the uncontrolled discharge of pollutants to the municipal separate storm sewer system has an adverse impact upon the water quality of the receiving waters.

- (a) The 1987 amendments to the Federal Water Pollution Control Act, commonly known as the Clean Water Act, established the National Pollutant Discharge Elimination System (NPDES) program, which requires permits for discharges from municipal separate storm sewer systems into waters of the United States. The Environmental Protection Agency has promulgated regulations implementing the NPDES program.
- (b) The NPDES regulations for stormwater discharges require certain municipalities, including Blount County, to:
 - (1) Prohibit through ordinance, order or similar means, illicit discharges to the municipal separate storm sewer system;
 - (2) Develop and implement a plan to detect and address non-stormwater discharges including illegal dumping;
 - (3) Implement appropriate enforcement procedures and actions; and
 - (4) Enable the county to comply with the NPDES General Permit, TMDLs (total maximum daily loads), and other applicable state and federal regulations.

SECTION 3. Prohibitions.

- (A) No person shall:
 - (1) Connect, or allow to be connected any sanitary sewer to the municipal separate storm sewer system, including any sanitary sewer connected to the municipal separate storm sewer system as of the date of adoption of this resolution, or
 - (2) Cause or allow an illicit discharge to the municipal separate storm sewer system, or any component thereof.

- (B) Subject to the provisions of subsection (C), the following discharges shall not be in violation of this resolution:
 - (1) Water line flushing;
 - (2) Landscape irrigation;
 - (3) Diverted stream flows or rising groundwater;
 - (4) Uncontaminated groundwater [as defined at 40CFR,35.2005 (20)];

- (5) Uncontaminated pumped groundwater;
- (6) Discharges from potable water sources, foundation drains, air conditioning condensation, irrigation waters, springs, Water from crawl space pumps, or footing drains;
- (7) Lawn watering
- (8) Individual noncommercial car washing;
- (9) Flows from riparian habitats and wetlands;
- (10) Dechlorinated swimming pool discharges;
- (11) Street wash water (including tunnel clearing); and
- (12) Discharges or flows from firefighting activities.

(C) If the Stormwater Director or his/her designee finds that any of the activities listed in subsection (B) above is a significant contributor of pollutants to the municipal separate storm sewer system, the Director or his/her designee shall notify the person performing such activity and shall order that such activities be stopped in keeping with county enforcement procedures and actions.

SECTION 4. Notification of spills and illicit discharges.

As soon as any person has knowledge of any illicit spills or discharges to the municipal separate storm sewer system in violation of this resolution, such person shall immediately notify the Stormwater Department by telephone of this discharge. If such person is directly or indirectly responsible for such discharge or responsible for the operation of the system or business, then such person shall also take immediate action to ensure the containment and cleanup of such discharge and shall confirm such telephone notification with a written report to the Stormwater Department within three (3) calendar days. At a minimum, the written report for any illicit discharge shall include:

- a. Date and time of the discharge
- b. Location of the discharge
- c. Material or substance discharged
- d. Duration and rate of flow
- e. Total volume discharged
- f. Total volume recovered
- g. Cause or reason for the discharge
- h. Remediation and containment action taken
- i. Material Safety Data Sheets (MSDS) for the discharged material(s)
- j. Action taken to prevent further discharges
- k. Description of any environmental impact

SECTION 5. Requirements for monitoring.

The Stormwater Department may require any person engaging in any activity or owning any property, building or facility (including but not limited to a site of industrial activity) to undertake such reasonable monitoring of any discharge(s) to the municipal separate storm sewer system and to furnish periodic detailed reports of discharges and/or illicit discharges.

SECTION 6. Right of entry.

The Stormwater Director or his/her designee may enter upon any property which discharges or contributes, or is believed to discharge or contribute, to stormwater runoff or to the municipal separate storm sewer system during all reasonable hours to monitor, remove foreign objects or blockages, or to inspect for compliance with the provisions of this resolution.

SECTION 7. Notice of Violation.

Whenever the Stormwater Director or his/her designee determines that a violation of any provision of this resolution has occurred, the Director or his/her designee may issue a Notice of Violation to the property owner, utility, facility operator, lessee, contractor, permittee and/or the equipment operator causing and/or contributing to the illicit discharge. The Notice of Violation shall:

- (1) Be in writing;
- (2) Include a description of the property sufficient for identification of where the violation has occurred;
- (3) List the violation;
- (4) State the action required; and
- (5) Provide a deadline for compliance or to stop work.

SECTION 8. Penalties.

- (a) Any person violating the provisions of this resolution shall be guilty of a misdemeanor and punished as provided in the general provisions of the County Code. Each day that a continuing violation of this resolution is maintained or permitted to remain shall constitute a separate offense.
- (b) Any person violating the provisions of this resolution may be assessed a civil penalty by the county of not less than fifty dollars (\$50.00) or more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate offense. The county may also recover all damages proximately caused to the municipality by such violations.
- (c) In assessing a civil penalty, the county may consider:
 - (1) The harm done to the public health or the environment;
 - (2) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
 - (3) The economic benefit gained by the violator;
 - (4) The amount of effort put forth by the violator to remedy the violation;
 - (5) Any unusual or extraordinary enforcement costs incurred by the municipality;
 - (6) The amount of penalty established by ordinance or resolution for specific categories of violations, if any;
 - (7) Any equities of the situation that outweigh the benefit of imposing any penalty or damage assessment;
 - (8) Willingness and cooperation of the violator to remedy this violation and remediate the damage;
 - (9) Whether the violation was intentional, accidental, or negligence;

- (10) Cost incurred by the county for any administration, remediation, investigation, enforcement, and monitoring of the violation; and
- (11) Prior violations for this location and/or business.
- (d) In addition to the civil penalty in subsection (b) above, the county may recover all damages proximately caused by the violator to the municipality, which may include any reasonable expenses incurred in investigating violations and enforcing violations of this resolution.
- (e) The county may bring legal action to enjoin the continuing violation of this resolution, and the existence of any other remedy, at law or in equity, shall be no defense to any such actions.
- (f) The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted.
- (g) Any civil penalty assessed by the county may be appealed to the Blount County Circuit Court.

SECTION 9. Effective Date.

This resolution shall take effect upon its adoption, the public welfare requiring it.

Duly authorized and approved the XX day of MONTH, YEAR.

CERTIFICATION OF ACTION:

ATTEST:

Commission Chairman

County Clerk

Approved: _____

Vetoed: _____

County Mayor

Date