

RESOLUTION NO. 24-10-014

RESOLUTION SPONSORS: COMMISSIONERS DAVID WELLS AND MIKE CAYLOR

A RESOLUTION UPDATING AND REVISING REGULATIONS TO PROTECT WATER QUALITY IN THE UNINCORPORATED AREAS OF BLOUNT COUNTY BY PROHIBITING, SUPPRESSING, AND PREVENTING THE CONTAMINATION OF STORM WATER BY ILLICIT DISCHARGE OF POLLUTANTS WHICH REVISIONS REDUCE OVERLY RESTRICTIVE PORTIONS OF THE EXISTING RESOLUTION

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, on September 21, 2000, the Board of County Commissioners of Blount County, Tennessee, by a vote of 20 in favor, 0 opposed, and 1 absent adopted Resolution No. 00-09-01 authorizing Blount County to exercise said powers granted to all or certain municipalities; and

WHEREAS, upon the adoption of said Resolution No. 00-09-01 and pursuant to Tenn. Code Ann. § 6-2-201(22), Blount County became authorized to define, prohibit, abate, suppress, prevent, and regulate all acts, practices, conduct, businesses, occupations, callings, 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; and

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; and

WHEREAS, the Blount County Board of Commissioners previously adopted Resolution No. 08-08-015 entitled “A Resolution Adopting Regulations to Protect Water Quality in the Unincorporated Areas of Blount County by Prohibiting, Suppressing and Preventing the Contamination of Stormwater by Illicit Discharge of Pollutants” on August 21, 2008; and

WHEREAS, Blount County desires to revise and update Resolution No. 08-08-015 by making modifications necessary to comply with state and federal laws and regulations under the Clean Water Act; and

WHEREAS, pursuant to the authority of Tenn. Code Ann. §§ 5-1-118(c),

6-2-201(22) and 68-221-1101-1106 and Resolution No. 00-09-01, Blount County desires to revise the previously adopted regulations hereinafter set forth to protect water quality in the unincorporated areas of Blount County by prohibiting, suppressing, and preventing the contamination of storm water by illicit discharge of pollutants.

NOW, THEREFORE, BE IT RESOLVED the Board of County Commissioners of Blount County, Tennessee, meeting in regular session assembled this _____ day of _____, 2024, that the following regulations to protect water quality in the unincorporated areas of Blount County by prohibiting, suppressing, and preventing the contamination of storm water by illicit discharge of pollutants are hereby adopted to wit:

ILLICIT DISCHARGE RESOLUTION

SECTION 1. Definitions.

Illicit discharge - Any discharge into the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted in Section 3(B) of this resolution. This includes discharges that are intentional or accidental, and can have serious consequences for the health of humans, wildlife, and aquatic life.

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.

Runoff - The water resulting from precipitation that is not absorbed by the soil. Runoff is also called “stormwater” or “stormwater runoff”.

Sanitary sewer - A system of underground conduits that collect and deliver sanitary wastewater (from toilets, sinks, and other plumbing fixtures) to a wastewater treatment plant.

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 to the municipal separate storm sewer system 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)
 - (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. The Stormwater Department may have additional

requirements in keeping with County enforcement procedures and actions.

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 or require removal by the owner or operator any foreign objects or blockages, or to inspect for compliance with the provisions of this resolution.

SECTION 7. Notice of Violation.

- (A) 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, operator, or person(s) 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.
- (B) The Stormwater Director or his/her designee may require the property owner, operator, and/or person(s) causing and/or contributing to the illicit discharge to develop a corrective action plan for elimination of the discharge as soon as practicable. The corrective action plan shall be subject to the Stormwater Director's approval and must be adhered to once approved.

SECTION 9. 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 10. Effective Date.

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

Duly authorized and approved the _____ day of _____, 2024.

CERTIFICATION OF ACTION

ATTEST

Commission Chairman

County Clerk

County Mayor

Date

- ☐ Approved
- ☐ Vetoed