

CHAPTER 5

STORMWATER ORDINANCE

SECTION

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18-501. General provisions. (1) Purpose. It is the purpose of this ordinance to:

(a) Protect, maintain, and enhance the environment of the City of Union City and the public health, safety and the general welfare of the citizens of the city, by controlling discharges of pollutants to the city's stormwater system and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, rivers, streams, ponds, and wetlands;

(b) Enable the City of Union City to comply with the National Pollution Discharge Elimination System (NPDES) General Permit for Discharges from Small Separate Storm Systems, Permit No. TNS000000 and applicable regulations at 40 CFR § 122.26 for stormwater discharges; and

(c) Allow the City of Union City to exercise the powers granted at Tennessee Code Annotated, § 68-221-1105, which proves that, among other powers municipalities have with respect to stormwater facilities, is the power by ordinance or resolution to:

(i) Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the municipality, whether or not owned and operated by the municipality;

(ii) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;

(iii) Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality;

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

(v) Issue permits for stormwater discharges, or for the construction, alteration, extension, or repair of stormwater facilities;

(vi) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;

(vii) Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and

(viii) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private.

(2) Administering entity. The Union City Department of Planning and Codes Enforcement shall administer the provisions of this ordinance. (as added by Ord. #19-05, Dec. 2004, and replaced by Ord. #52-07, Jan. 2007)

18-502. Definitions. For the purpose of this section, 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 at the latest edition of Webster's Dictionary.

(1) "As built plans" means drawings depicting conditions as they were actually constructed.

(2) "Best Management Practices (BMPs)" are physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, that have been approved by the City of Union City, and that have been incorporated by reference into this ordinance as if fully set out therein.

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

(4) "Community water" means 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 City of Union City.

(5) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

(6) "Design storm event" means a hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a stormwater facility.

(7) "Discharge" means dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the municipal separate storm sewer system.

(8) "Easement" means an acquired privilege or right of use or enjoyment that a person, party, firm, corporation, municipality or other legal entity has in the land of another.

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

(10) "Erosion and sediment control plan" means 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.

(11) "Hotspot (priority area)" means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

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

(13) "Illicit discharge" means any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted in § 18-503(3).

(14) "Land disturbing activity" means any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation.

(15) "Maintenance" means any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater facility.

(16) "Maintenance agreement" means a document recorded in the land records that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

(17) "Municipal separate storm sewer system (MS4)" means 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.

(18) "National Pollutant Discharge Elimination System (NPDES) permit" means a permit issued pursuant to 33 U.S.C. 1342.

(19) "Off-site facility" means a structural BMP located outside the subject property boundary described at the permit application for land development activity.

(20) "On-site facility" means a structural BMP located within the subject property boundary described at the permit application for land development activity.

(21) "Peak flow" means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.

(22) "Person" means any and all persons, natural or artificial, including any individual, firm or association and any municipal or private corporation organized or existing under the laws of this or any other state or country.

(23) "Priority area" means "hot spot" as defined in subsection (11) above.

(24) "Runoff" means that portion of the precipitation on a drainage area that is discharged from the area into the municipal separate storm sewer system.

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

(26) "Sedimentation" means soil particles suspended in stormwater that can settle in stream beds and disrupt the natural flow of the stream.

(27) "Soils report" means a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils scientist, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees.

(28) "Stabilization" means providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.

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

(30) "Stormwater management" means the programs to maintain quality and quantity of stormwater runoff to pre-development levels.

(31) "Stormwater management facilities" means 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.

(32) "Stormwater management plan" means the set of drawings and other documents that comprise all the information and specifications for the

programs, drainage systems, structures, BMPS, concepts and techniques intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels.

(33) "Stormwater runoff" means flow on the surface of the ground, resulting from precipitation.

(34) "Structural BMPs" means devices that are constructed to provide control of stormwater runoff.

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

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

(37) "Watershed" means all the land area that contributes runoff to a particular point along a waterway. (as added by Ord. #19-05, Dec. 2004, and replaced by Ord. #52-07, Jan. 2007)

18-503. Land disturbance permits. (1) Applicability. (a) Every person will be required to obtain a land disturbance permit from the City of Union City Department of Planning and Codes Enforcement in the following cases:

(i) Land disturbing activity disturbs one (1) or more acres of land;

(ii) Land disturbing activity of less than one (1) acre of land if such activity is part of a larger common plan of development that affects one (1) or more acres of land;

(iii) Land disturbing activity of less than one (1) acre of land if, in the discretion of the City of Union City Department of Planning and Codes Enforcement, such activity poses a unique threat to water, or public health or safety; or

(iv) The creation and use of borrow pits.

(2) Withholding of building permit. No building permit shall be issued until the applicant has obtained a land disturbance permit where the same is required by this ordinance.

(3) Exemptions. The following activities are exempt from the requirement to obtain a land disturbance permit:

(a) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.

(b) Existing nursery and agricultural operations conducted as a permitted main or accessory use.

(c) Any logging or agricultural activity that is consistent with an approved farm conservation plan or a timber management plan prepared or approved by the Natural Resources Conservation Service, U.S. Department of Agriculture or the Tennessee Division of Forestry.

(d) Additions or modifications to existing single family structures.

(4) Application for a land disturbance permit. (a) Each application for a land disturbance permit shall be made on a form provided by the City of Union City Department of Planning and Codes Enforcement and shall include the following:

- (i) Name of applicant;
- (ii) Business or residence address of applicant;
- (iii) Name, address and telephone number of the owner of the property of record in the office of the assessor of property;
- (iv) Address of subject property including the deed book and page number and the tax map number and tax map parcel number of the subject property;
- (v) Name, address and telephone number of the contractor and any subcontractor(s) who shall perform the land disturbing activity and who shall implement the erosion and sediment control plan;
- (vi) A statement indicating the nature, extent and purpose of the land disturbing activity including the size of the area for which the permit shall be applicable and a schedule for the starting and completion dates of the land disturbing activity;
- (vii) Where the subject property includes a sinkhole, the applicant shall obtain from the Tennessee Department of Environment and Conservation appropriate permits; and
- (viii) The applicant shall obtain from any other state or federal agency any other appropriate environment permits that pertain to the subject property. However, the inclusion of those permits in the application shall not foreclose the City of Union City Department of Planning and Codes Enforcement from imposing additional development requirements and conditions, commensurate with this ordinance, on the development of property covered by those permits.

(b) Each application shall be accompanied by:

- (i) A stormwater management plan as described in § 18-504(4), providing for stormwater management during the land disturbing activity and after the activity has been completed;
- (ii) A sediment and erosion control plan as described in § 18-504(5);
- (iii) Each application for a land disturbance permit shall be accompanied by payment of land disturbance permit and other stormwater management fees, which shall be set by resolution or ordinance.

(5) Review and approval of application. (a) The City of Union City Department of Planning and Codes Enforcement will review each

application for a land disturbance permit to determine its conformance with the provisions of this ordinance. Within thirty (30) days after receiving an application, the City of Union City Department of Planning and Codes Enforcement shall provide one of the following responses in writing:

- (i) Approval of the permit application;
- (ii) Approval of the permit application, subject to such reasonable conditions as may be necessary to secure substantially the objectives of this ordinance, and issue the permit subject to these conditions; or
- (iii) Denial of the permit application, indicating the reason(s) for the denial.

(b) If the City of Union City Department of Planning and Codes Enforcement has granted conditional approval of the permit, the applicant shall submit a revised stormwater management plan and/or sediment and erosion control plan that conforms to the conditions established by the City of Union City Department of Planning and Codes Enforcement. However, the applicant shall be allowed to proceed with his land disturbing activity so long as it conforms to conditions established by the City of Union City Department of Planning and Codes Enforcement.

(6) Permit duration. Every land disturbance permit shall expire and become null and void if substantial work authorized by such permit has not commenced within one hundred eighty (180) calendar days of issuance, or is not complete within eighteen (18) months from the date of the commencement of construction.

(7) Notice of construction. The applicant must notify the City of Union City Department of Planning and Codes Enforcement ten (10) working days in advance of the commencement of construction. Regular inspections of the stormwater management system construction shall be conducted by the City of Union City Department of Planning and Codes Enforcement. All inspections shall be documented and written reports prepared that contain the following information:

- (a) The date and location of the inspection;
 - (b) Whether construction is in compliance with the approved stormwater management plan;
 - (c) Variations from the approved construction specifications;
- and
- (d) Any violations of the land disturbance permit that exist.

(8) Performance bonds. (a) The City of Union City Department of Planning and Codes Enforcement may, at its discretion, require the submittal of a performance security or performance bond prior to issuance of a land disturbance permit in order to ensure that the stormwater practices are installed by the permit holder as required by

the approved stormwater management 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 a certain percentage of the total estimated costs. The performance security shall contain forfeiture provisions for failure to complete work stipulated at the stormwater management plan. The applicant for a land disturbance permit shall, at the request of the City of Union City Department of Planning and Codes Enforcement, provide an itemized construction cost estimate complete with unit prices which shall be subject to acceptance, amendment or rejection by the City of Union City Department of Planning and Codes Enforcement. Alternatively the City of Union City Department of Planning and Codes Enforcement shall have the right to calculate the cost of construction cost estimates.

(b) Where required by the City of Union City Department of Planning and Codes Enforcement, the performance security or performance bond shall be released in full only upon submission of as-built plans and written notification by a registered professional engineer licensed to practice in Tennessee that the structural BMPs have been installed in accordance with the approved stormwater management plan and other applicable provisions of this ordinance. The City of Union City Department of Planning and Codes Enforcement will make a final inspection of the structural BMPs to ensure that they are in compliance with the approved stormwater management plan and the provisions of this ordinance. Provisions for a partial pro-rata release of any required performance security or performance bond based on the completion of various development stages can be made at the discretion of the City of Union City Department of Planning and Codes Enforcement. (as added by Ord. #19-05, Dec. 2004, and replaced by Ord. #52-07, Jan. 2007)

18-504. Stormwater system design and management standards.

(1) Stormwater management program handbook. (a) The City of Union City adopts as its stormwater management program handbook the following document, which is incorporated by reference into this ordinance as if fully set out herein:

(i) "Stormwater Management Program Handbook for the City of Union City," dated November 2004, revised January 2006 prepared by J. R. Watford & Company, Consulting Engineers, Inc.

(b) This stormwater management program handbook includes a list of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each stormwater practice. The handbook may be updated and expanded from time to time, at the discretion of the Mayor and Council of the City of Union City, upon the recommendation of the City of Union City

Department of Planning and Codes Enforcement, based on improvements in engineering, science, monitoring and/or local maintenance experience. Stormwater management facilities that are designed, constructed and maintained in accordance with the BMP criteria included at the stormwater management handbook will be presumed to meet the minimum water quality performance standards.

(2) General performance criteria for stormwater management. Unless judged by the City of Union City Department of Planning and Codes Enforcement to be exempt, the following performance criteria shall be addressed for stormwater management at all sites:

(a) All site designs shall control the peak flow rates of stormwater discharge associated with design storms stipulated at this ordinance or in the stormwater management handbook and reduce the generation of post construction peak stormwater runoff rates 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.

(b) To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed at the stormwater management program handbook.

(c) Stormwater discharges to critical areas with sensitive resources may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.

(d) Stormwater discharges from "hot spots" may require the application of specific structural BMPs and pollution prevention practices.

(e) Prior to or during the site design process, applicants for land disturbance permits shall consult with the City of Union City Department of Planning and Codes Enforcement to determine if they are subject to additional stormwater design requirements.

(f) The calculations for determining peak flows as found at the stormwater management program handbook shall be used for sizing all stormwater facilities.

(3) Minimum control requirements. (a) Stormwater designs shall meet the multi-stage storm frequency storage requirements listed at the stormwater management program handbook.

(b) If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the City of Union City Department of Planning and Codes Enforcement may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

(4) Stormwater management plan requirements. The stormwater management plan shall include sufficient information to allow the City of Union City Department of Planning and Codes Enforcement to evaluate the environmental characteristics of the proposed site of land disturbance, the potential present and future impacts of all proposed development of the site on water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the proposed site of land disturbance. To accomplish this goal the stormwater management plan shall include the following unless a waiver from post construction stormwater management as required by this ordinance is granted by the City of Union City Department of Planning and Codes Enforcement and then subsection (f) may be omitted:

(a) Topographic base map. A one inch equals twenty feet (1" = 20') topographic base map of the proposed site of land disturbance which extends a minimum of fifty feet (50') beyond the limits of the proposed land disturbance and indicates:

(i) Existing surface water drainage including streams, ponds, culverts, ditches, sink holes, wetlands; and the type, size, and elevation of the nearest upstream and downstream drainage structures;

(ii) Current land use including all existing structures, locations of utilities, roads, and easements;

(iii) All other existing significant natural and artificial features;

(iv) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses, drainage patterns, locations of utilities, roads and easements, the limits of clearing and grading;

(v) Proposed structural BMPs; and

(vi) The location of a permanent elevation benchmark at the proposed site.

(b) A written description of the site plan and justification of proposed changes in natural conditions may also be required.

(c) Calculations. Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms stipulated at the stormwater management program handbook. These calculations must demonstrate that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this ordinance and the guidelines at the stormwater management program handbook. Such calculations shall include:

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

(ii) Time of concentration;

- (iii) Soil curve numbers or runoff coefficients including assumed soil moisture conditions;
- (iv) Peak runoff rates and total runoff volumes for each watershed area;
- (v) Infiltration rates, where applicable;
- (vi) Culvert, storm sewer, ditch and/or other stormwater conveyance capacities;
- (vii) Flow velocities;
- (viii) Data indicating the calculated increase in rate and volume of runoff for the design storms referenced at the stormwater management program handbook; and
- (ix) Documentation of sources for all computation methods and field test results.

(d) Soils information. If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.

(e) 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.

(f) Landscaping plan. The applicant must prepare a detailed plan for management of vegetation at the site after construction is finished describing the vegetative stabilization and management techniques to be used at the site after construction is completed and 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.

(g) 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.

(h) Maintenance agreement. (i) The owner of property to be served by an 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.

(ii) The maintenance agreement shall:

(A) Assign responsibility for the maintenance and repair of the on-site stormwater management facility to the owner of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.

(B) Provide for a periodic inspection by the property owner for the purpose of documenting maintenance and repair needs to the on-site stormwater management facility and ensure compliance with the purpose and requirements of this ordinance. The property owner will submit a written report of the inspection to the City of Union City Department of Planning and Codes Enforcement. It shall also grant permission to the City of Union City Department of Planning and Codes Enforcement to enter the property at reasonable times and to inspect the on-site stormwater management 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 maintenance and repair of 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 stipulated at the stormwater management program handbook.

(D) Provide that maintenance needs of the on-site stormwater management facility must be addressed in a timely manner, on a schedule to be determined by the City of Union City Department of Planning and Codes Enforcement.

(E) Provide that if the on-site stormwater management facility is not maintained or repaired within the prescribed schedule, the City of Union City Department of Planning and Codes Enforcement shall perform the maintenance and repair at its expense, and bill the same to the property owner. The maintenance agreement shall also provide that the City of Union City Department of Planning

and Codes Enforcement's cost of performing the maintenance shall be a lien against the property.

(ii) The City of Union City shall have the discretion to accept the dedication of any existing or future on-site stormwater management facility, provided such facility meets the requirements of this ordinance, and includes adequate and perpetual access and sufficient areas, by easement or otherwise, for inspection and regular maintenance. Any on-site stormwater management facility accepted by the City of Union City must also meet the City of Union City's construction standards and any other standards and specifications that apply to the particular on-site stormwater management facility in question.

(i) Sediment and erosion control plans. The applicant must prepare a sediment and erosion control plan for all proposed land disturbance activities that complies with the requirements at § 18-504(5).

(5) Sediment and erosion control plan requirements. The sediment and erosion control plan shall accurately describe the potential for soil erosion and sedimentation problems resulting from the proposed land disturbing activity and shall explain and illustrate the measures that are to be taken to control these potential problems. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and potential for off-site damage. The plan shall conform to the requirements at the stormwater management program handbook, and shall include at least the following:

(a) A brief description of the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required.

(b) Drawings and maps which depict the following:

(i) Topography with contour intervals of five feet (5') or less depicting present conditions and proposed contours resulting from land disturbing activity.

(ii) All existing drainage ways, including intermittent and wet-weather, and any designated floodways or flood plains.

(iii) A general description of existing land cover. Individual trees and shrubs do not need to be identified.

(iv) Stands of existing trees as they are to be preserved upon project completion, depicting their general location on the property. Differentiation shall be made between existing trees to be preserved, trees to be removed and proposed planted trees. Tree protection measures must be identified, and the diameter of the area involved must also be identified on the map and shown to scale. Information shall be supplied concerning the proposed destruction of exceptional and historic trees in setbacks and buffer strips, where they exist. Complete landscape plans may be

submitted separately. The drawings and maps must include the sequence of implementation for tree protection measures.

(v) Approximate limits of proposed clearing, grading and filling.

(vi) Approximate flows of existing stormwater leaving any portion of the site.

(vii) A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.

(viii) Location, size and layout of proposed stormwater and sedimentation control improvements.

(ix) Proposed drainage network.

(x) Proposed drainage structure or waterway sizes.

(xi) Approximate flows estimated to leave site after construction and incorporating water run-off mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The plan must address the adequacy of outfalls from the development: when water is concentrated, what is the capacity of waterways, if any, accepting stormwater off-site; and what measures, including infiltration and/or sheeting into buffers, are going to be used to prevent the scouring of waterways and drainage areas off-site.

(xii) The projected sequence of work represented by the grading, drainage and sedimentation and erosion control plan as related to other major items of construction, beginning with the initiation of excavation and including the construction of any sediment basins or retention facilities or any other structural BMPs.

(xiii) Specific remediation measures to prevent erosion and sedimentation run-off. Plans shall include detailed drawings of all control measures used; stabilization measures including vegetation and non-vegetation measures, both temporary and permanent, will be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan.

(xiv) Specific details for the construction of rock pads, wash down pads, and settling basins for controlling erosion; road access locations; eliminating or keeping soil, sediment, and debris on streets and public ways at a level acceptable to the City of Union City Department of Planning and Codes Enforcement. Soil, sediment, and debris brought onto streets and public ways must be removed by the end of the work day by machine, broom or shovel to the satisfaction of the City of Union City Department of

Planning and Codes Enforcement. Failure to remove the sediment, soil or debris shall be deemed a violation of this ordinance.

(xv) Proposed structures; location and identification of any proposed additional buildings, structures or development on the site.

(xvi) A description of on-site measures to be taken to recharge surface water into the ground water system through infiltration. (as added by Ord. #19-05, Dec. 2004, and replaced by Ord. #52-07, Jan. 2007)

18-505. Post construction. (1) As-built plans. All applicants are required to submit actual as-built plans for any structural BMPs located on-site after final construction is completed. The plan must depict the as-constructed condition for all stormwater management facilities. A final inspection by the City of Union City Department of Planning and Codes Enforcement is required before any performance security or performance bond will be released. The City of Union City Department of Planning and Codes Enforcement shall have the discretion to adopt provisions for a partial pro-rata release of any performance security or performance bond on the completion of various stages of development. In addition, occupation permits shall not be granted until corrections to all BMPs have been made and accepted by the City of Union City Department of Planning and Codes Enforcement.

(2) Landscaping and stabilization requirements. 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 City of Union City Department of Planning and Codes Enforcement. The following criteria shall apply to revegetation efforts:

(a) Reseeding must be undertaken 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.

(b) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.

(c) Any area of 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.

(3) Inspection of stormwater management facilities. Periodic inspections of facilities shall be performed as provided for at § 18-504(4)(h)(ii)(B).

(4) Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at least three (3) years. These records shall be made available to the City of Union City Department of Planning and Codes Enforcement 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 management facilities under this ordinance, the City of Union City Department of Planning and Codes Enforcement, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the stormwater management facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the City of Union City Department of Planning and Codes Enforcement shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the City of Union City Department of Planning and Codes Enforcement may take necessary corrective action. The cost of any action by the City of Union City Department of Planning and Codes Enforcement under this section shall be charged to the responsible party. (as added by Ord. #19-05, Dec. 2004, and replaced by Ord. #52-07, Jan. 2007)

18-506. Waivers from post construction stormwater management requirements. (1) General. Every applicant for a land disturbance permit shall provide for post construction stormwater management as required by this ordinance, unless a written request is filed with and approved by the City of Union City Department of Planning and Codes Enforcement to waive this requirement.

(2) Conditions for waiver. The post construction stormwater management required by this ordinance may be waived in whole or in part by the Union City Department of Planning and Codes Enforcement upon written request by the applicant for a land disturbance permit, provided that at least one (1) of the following conditions applies:

(a) It can be demonstrated that the waiver of post construction stormwater management requirements for the proposed land disturbance activity is not likely to impair attainment of the objectives of this ordinance;

(b) Alternative minimum requirements for on-site post construction management of stormwater discharges have been established in a stormwater management plant that has been approved

by the City of Union City Department of Planning and Codes Enforcement; or

(c) Provisions are made to manage post construction stormwater discharges by an off-site facility. The off-site facility must be in place and designed to provide the level of stormwater control that is equal to or greater than the level of stormwater control which would be afforded by structural BMPs located on-site after final construction is completed. Further, the off-site facility must be operated and maintained by an entity that is legally obligated to continue the operation and maintenance of the facility.

(3) Downstream damage prohibited. In order to receive a waiver from the post construction stormwater management required by this ordinance, the applicant for a land disturbance permit must demonstrate to the satisfaction of the City of Union City Department of Planning and Codes Enforcement that the waiver will not lead to any of the following conditions downstream:

(a) Deterioration of existing culverts, bridges, dams, and other structures;

(b) Degradation of biological functions of habitat;

(c) Accelerated streambank or streambed erosion or siltation;
and

(d) Increased threat of flood damage to public health, life or property.

(4) Land disturbance permit not to be issued until waiver request is decided. In the event that the applicant for a land disturbance permit requests a waiver from post construction stormwater management as required by this ordinance, the City of Union City Department of Planning and Codes Enforcement shall not issue the land disturbance permit until the waiver is either granted or denied. If the requested waiver is denied by the City of Union City Department of Planning and Codes Enforcement, the stormwater management plan shall be revised to include the post construction stormwater management as required by this ordinance and resubmitted for approval. (as added by Ord. #19-05, Dec. 2004, and replaced by Ord. #52-07, Jan. 2007)

18-507. Existing locations and developments. (1) Requirements for all existing locations and developments. The following requirements shall apply to all locations and developments at which land disturbing activities have occurred previous to the enactment of this ordinance:

(a) Denuded areas must be vegetated or covered under the standards and guidelines stipulated at § 18-505(2) and on a schedule acceptable to the City of Union City Department of Planning and Codes Enforcement.

(b) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.

(c) Drainage ways shall be properly covered in vegetation or secured with rip-rap or other channel lining to prevent erosion.

(d) Rubbish shall be cleared from drainage ways.

(e) Stormwater runoff shall be controlled to the extent reasonable to prevent pollution of local waters.

(2) Requirements for existing problem locations. The City of Union City Department of Planning and Codes Enforcement shall in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problems affecting such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance.

(3) Inspection of existing facilities. The City of Union City Department of Planning and Codes Enforcement may, to the extent authorized by state and federal law, establish inspection programs to verify that all stormwater management facilities built before the adoption of this ordinance are functioning within design limits stipulated at this ordinance. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the NPDES General Permit for Discharges from Small Municipal Separate Storm Sewer Systems issued to the City of Union City; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPS.

(4) Corrections of problems subject to appeal. Corrective measures imposed by the City of Union City Department of Planning and Codes Enforcement under this section are subject to appeal as described in § 18-511. (as added by Ord. #19-05, Dec. 2004, and replaced by Ord. #52-07, Jan. 2007)

18-508. Illicit discharges. (1) Scope. This section shall apply to all water generated on developed or undeveloped land entering the City of Union City's separate storm sewer system.

(2) Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the City of Union City municipal separate storm sewer system any discharge that is not composed entirely of stormwater. The commencement, conduct or continuance of any non-stormwater discharge to the City of Union City 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 groundwater;
 - (v) Groundwater infiltration to storm drains;
 - (vi) Pumped groundwater;
 - (vii) Foundation or footing drains;
 - (viii) Crawl space pumps;
 - (ix) Air conditioning condensation;
 - (x) Springs;
 - (xi) Non-commercial washing of vehicles;
 - (xii) Natural riparian habitat or wet-land flows;
 - (xiii) Swimming pools (if dechlorinated to contain less than one (1) part per million of free residual chlorine);
 - (xiv) Fire fighting activities; and
 - (xv) Any other uncontaminated water source.

(b) Discharges stipulated in writing by the City of Union City Department of Planning and Codes Enforcement as being necessary to protect public health and safety.

(c) Dye testing is an allowable discharge if the City of Union City Department of Planning and Codes Enforcement has so stipulated in writing.

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

(b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(4) Reduction of stormwater pollutants by the use of best management practices. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMPs necessary to prevent the further discharge of pollutants to the City of Union City 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.

(5) Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into the City of Union City municipal

separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the City of Union City Department of Planning and Codes Enforcement in person or by telephone or facsimile communication no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the City of Union City Department of Planning and Codes Enforcement within three (3) business days after the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years. (as added by Ord. #19-05, Dec. 2004, and replaced by Ord. #52-07, Jan. 2007)

18-509. Enforcement. (1) Enforcement authority. The city manager of the City of Union City or his designees shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided at this section.

(2) Notification of violation. (a) Written notice. Whenever the city manager of the City of Union City finds that any person discharging stormwater has violated or is violating this ordinance or a permit to conduct land disturbance or order issued hereunder, the city manager may serve upon such person written notice of the violation. Within ten (10) days of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the city manager. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(b) Consent orders. The city manager of the City of Union City is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also stipulated at the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to § 18-509(2)(d) and (e).

(c) Show cause hearing. The city manager of the City of Union City may order any person who violates this ordinance or the requirements at a land disturbance permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action,

and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.

(d) **Compliance order.** When the city manager of the City of Union City finds that any person has violated or continues to violate this ordinance or the requirements at a land disturbance permit or order issued thereunder, he may issue an order to the violator directing that, following a specific time period, adequate structures and/or devices be installed or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.

(e) **Cease and desist orders.** When the city manager of the City of Union City finds that any person has violated or continues to violate this ordinance or the requirements at a land disturbance permit or order issued hereunder, the city manager may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

(i) Comply forthwith; or

(ii) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(3) **Conflicting standards.** Whenever there is a conflict between any standard contained at this ordinance and in the Stormwater Management Program Handbook adopted by the City of Union City under this ordinance, the strictest standard shall prevail. (as added by Ord. #19-05, Dec. 2004, and replaced by Ord. #52-07, Jan. 2007)

18-510. Penalties. (1) **Violations.** Any person who shall commit any act declared unlawful under this ordinance, who violates any provision of this ordinance, who violates the provisions of any permit issued pursuant to this ordinance, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the City of Union City, shall be guilty of a civil offense.

(2) **Penalties.** Under the authority provided at Tennessee Code Annotated, § 68-221-1106, the City of Union City declares that any person violating the provisions of this ordinance may be assessed a civil penalty by the City of Union City of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.

(3) **Measuring civil penalties.** In assessing a civil penalty, the city manager of the City of Union City may consider:

- (a) The harm done to the public health of the environment;
 - (b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
 - (c) The economic benefit gained by the violator;
 - (d) The amount of effort put forth by the violator to remedy this violation;
 - (e) Any unusual or extraordinary enforcement costs incurred by the City of Union City;
 - (f) The amount of penalty established by ordinance or resolution for specific categories of violations; and
 - (g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.
- (4) Recovery of damages and costs. In addition to the civil penalty described at § 18-510(2), the City of Union City may recover:
- (a) All damages proximately caused by the violator to the City of Union City, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this ordinance, or any other actual damages caused by the violation.
 - (b) The costs of the maintenance performed by the City of Union City of stormwater management facilities when the user of such facilities fails to maintain them as required at this ordinance.
- (5) Other remedies. The City of Union City may bring legal action to enjoin the continuing violation of this ordinance, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.
- (6) Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted. (as added by Ord. #19-05, Dec. 2004, and replaced by Ord. #52-07, Jan. 2007)

18-511. Appeals. Pursuant to the requirements of Tennessee Code Annotated, § 68-221-1106(d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this ordinance may appeal said penalty or damage assessment to the mayor and council of the City of Union City.

(1) Appeals to be in writing. The appeal shall be in writing and filed with the city manager within fifteen (15) days after the civil penalty and/or damage assessment is served in any manner authorized by law.

(2) Public hearing. Upon receipt of an appeal, the mayor and council of the City of Union City shall hold a public hearing withing thirty (30) days. Ten (10) days prior notice of the time, date, and location of said hearing shall be published in a daily newspaper of general circulation. Ten (10) days notice by registered mail shall also be provided to the aggrieved party, such notice to be

sent to the address provided by the aggrieved party at the time of appeal. The decision of the mayor and council of the City of Union City shall be final.

(3) Appealing decisions of the mayor and council of the City of Union City. Any alleged violator may appeal a decision of the mayor and council of the City of Union City pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8. (as added by Ord. #19-05, Dec. 2004, and replaced by Ord. #52-07, Jan. 2007)

18-512. Placement of leaves, grass clippings, and other yard waste within the city's storm sewerage system. (1) Definitions. For the purposes of interpreting and enforcing this section, the following definitions shall apply:

(a) "Storm sewerage system" shall mean any drainage ditch, street, gutter, culvert, drainage tile or pipe, or stormwater detention pond which is owned by the City of Union City or, any privately owned facilities which deposit stormwater into the drainage ditches, streets, gutters, culverts, drainage tiles or pipes, or stormwater detention ponds of the City of Union City.

(b) "Yard wastes" shall mean trees, tree limbs, leaves, brush, weeds, grass clippings, landscape pruning, garden plants, and other natural materials.

(2) Placement of leaves, grass clippings, and other yard wastes in the city's storm sewage system prohibited. It shall be unlawful for any person to place leaves, grass clippings or other yard wastes into any part of the storm sewerage system owned by the City of Union City, or into any privately owned storm sewerage system which drains or deposits into the city's sewerage system.

(3) Penalty for violation. All persons found to be in violation of any provision of this section shall be subject to a fine in the municipal court of the City of Union City not to exceed fifty dollars (\$50.00) plus any and all applicable court costs. (as added by Ord. #54-07, Feb. 2007)