

**AGENDA
CITY OF MORRISTOWN, TENNESSEE
CITY COUNCIL MEETING
FEBRUARY 16, 2016 – 5:00 P.M.**

1. CALL TO ORDER

Mayor Gary Chesney

2. INVOCATION

Jonathan Bewley, Chaplain, Morristown Police Department

3. PLEDGE OF ALLEGIANCE

4. ROLL CALL

5. APPROVAL OF MINUTES

1. February 2, 2016

6. PROCLAMATIONS/PRESENTATIONS

**7. CITIZEN COMMENTS ABOUT AGENDA ITEMS ONLY
(Other than items scheduled for public hearing.)**

8. OLD BUSINESS

8-a. Public Hearings & Adoption of Ordinances/Resolutions

1. Ordinance No. 3531

Being an Ordinance of the City Council of Morristown, Tennessee Amending Title 16, Chapter 1, Section 114 of the Morristown Municipal Code. (Special Uses Regulated)

2. Ordinance No. 3532

Being an Ordinance of the City Council for the City of Morristown, Tennessee, Amending Title 9 Chapter 2 of the Morristown Municipal Code. (Farmers Market)

9. NEW BUSINESS

9-a. Resolutions

9-b. Introduction and First Reading of Ordinances

1. Ordinance No. _____
Being an Ordinance of the City Council for the City of Morristown, Tennessee,
Amending Title 1 of the Morristown Municipal Code. (General
Administration)
{Public Hearing March 1, 2016}
2. Ordinance No. _____
Being an Ordinance of the City Council for the City of Morristown, Tennessee,
Amending Title 2 of the Morristown Municipal Code. (Boards and
Commissions, Etc.)
{Public Hearing March 1, 2016}
3. Ordinance No. _____
Being an Ordinance of the City Council for the City of Morristown, Tennessee,
Amending Title 3 of the Morristown Municipal Code. (Municipal Court)
{Public Hearing March 1, 2016}
4. Ordinance No. _____
Being an Ordinance of the City Council for the City of Morristown, Tennessee,
Amending Title 4 of the Morristown Municipal Code. (Municipal Personnel)
{Public Hearing March 1, 2016}
5. Ordinance No. _____
Being an Ordinance of the City Council for the City of Morristown, Tennessee,
Amending Title 5 of the Morristown Municipal Code. (Municipal Finance &
Taxation)
{Public Hearing March 1, 2016}
6. Ordinance No. _____
Being an Ordinance of the City Council for the City of Morristown, Tennessee,
Amending Title 6 of the Morristown Municipal Code. (Law Enforcement)
{Public Hearing March 1, 2016}
7. Ordinance No. _____
Being an Ordinance of the City Council for the City of Morristown, Tennessee,
Amending Title 7 of the Morristown Municipal Code. (Fire Protection &
Fireworks)
{Public Hearing March 1, 2016}
8. Ordinance No. _____
Being an Ordinance of the City Council for the City of Morristown, Tennessee,
Amending Title 12 of the Morristown Municipal Code. (Building, Utility, Etc.,
Codes)
{Public Hearing March 1, 2016}

9. Ordinance No. _____
Being an Ordinance of the City Council for the City of Morristown, Tennessee, Amending Title 13 of the Morristown Municipal Code. (Property Maintenance Regs)
{Public Hearing March 1, 2016}
10. Ordinance No. _____
Being an Ordinance of the City Council for the City of Morristown, Tennessee, Amending Title 18 of the Morristown Municipal Code. (Water & Sewers)
{Public Hearing March 1, 2016}
11. Ordinance No. _____
Being an Ordinance of the City Council of Morristown, Tennessee, Amending Title 14, Zoning and Land Use Control, Chapter 22. (Municipal Floodplain Zoning Ordinance)
{Public Hearing March 1, 2016}

9-c. Awarding of Bids/Contracts

1. Approval of Contract Amendment (Task Order 004-B) for Construction Engineering Inspection (CEI) to Kimley-Horn Associations for Safe Routes to School Project in the amount of \$52,500.
2. Change Order #1 (final) for Right Turn Lane on Walters Drive, to adjust the initial estimates to match the actual quantities installed and to add 22 days to the contract for delays in fabrication and delivery of the signal poles, to Summers-Taylor in the amount of \$6,178.34 bringing contract price from \$87,597.75 to \$93,776.09.
3. Bid/Contract for Parks & Recreation Equipment to BK Graphics and BSN Sports.
4. Bid/Contract for Public Works Uniforms to Access Solutions.
5. Bid/Contract for Overhead Sidewalk repair to Herrco, Inc. in the amount of \$58,300.

9-d. Board/Commission Appointments

1. Mayor's appointment or re-appointment to the Morristown Regional Planning Commission for four (4) year terms currently held by William W. Thompson and Wayne NeSmith; terms expiring March 1, 2020.

9-e. New Issues

1. Declaration of the following items as surplus property and authorizing the disposal thereof: Six (6) plastic three (3) section traffic signal housings, and one (1) plastic four (4) section traffic signal housing.
2. Certificate of Compliance for Charles Hodge and Cynthia Shoun owners of the retail package store located at 3401 West Andrew Johnson Highway, DBA Chuck's Package Store.
3. Certificate of Compliance for Larry Bolton owner of the retail package store located at 1405 West Morris Boulevard, DBA The Cellar, Inc.
4. City Council confirmation of Police Department disciplinary action.

10. CITY ADMINISTRATOR'S REPORT

11. COMMUNICATIONS/PETITIONS

This is the portion of the meeting where members of the audience may speak subject to the guidelines provided.

12. COMMENTS FROM MAYOR/COUNCILMEMBERS/COMMITTEES

13. ADJOURN

City Council Meeting/Holiday Schedule:

Regular City Council Meeting with Work Session

March 1, 2016	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
March 15, 2016	(Tues) 4:00 p.m.	Finance Committee Meeting
March 15, 2016	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
March 25, 2016	(Friday)	City Employee's Holiday Good Friday
April 5, 2016	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
April 19, 2016	(Tues) 4:00 p.m.	Finance Committee Meeting
April 19, 2016	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
May 3, 2016	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
May 17, 2016	(Tues) 4:00 p.m.	Finance Committee Meeting
May 17, 2016	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
May 30, 2016	(Monday)	City Employee's Holiday Memorial Day

**WORK SESSION AGENDA
FEBRUARY 16, 2016
5:00 p.m.**

1. Stormwater Project Review.

**STATE OF TENNESSEE
COUNTY OF HAMBLLEN
CORPORATION OF MORRISTOWN
FEBRUARY 2, 2016**

The City Council for the City of Morristown, Hamblen County, Tennessee, met in regular session at the regular meeting place of the Council in the Morristown City Center at 5:00 p.m., Tuesday, February 2, 2016, with the Honorable Mayor Gary Chesney, presiding and the following Councilmembers present; Bob Garrett, Chris Bivens, Kay Senter, Dennis Alvis, Ken Smith and Tommy Pedigo.

Mark Campbell, Senior Chaplain, Morristown Police Department led in the invocation and Councilmember Alvis led in the "Pledge of Allegiance".

Councilmember Senter made a motion to approve the January 19, 2016, minutes as circulated. Councilmember Alvis seconded the motion and upon roll call; all voted "aye".

A Public Hearing was held regarding Ordinance No. 3530.

Councilmember Smith made a motion to approve Ordinance No. 3530 on second and final reading. Councilmember Bivens seconded the motion and upon roll call; all voted: "aye".

Ordinance No. 3530

An Ordinance to close and vacate certain rights-of-way within the City of Morristown. {Portion of excess right-of-way at the intersection of Walters Drive and Vantage View Drive.}

Councilmember Alvis made a motion to approve Resolution No. 01-16. Councilmember Smith seconded the motion and upon roll call; all voted: "aye".

Resolution No. 01-16

A Resolution of the City of Morristown, Tennessee, to Adopt the 2014 Home Grant Policies and Procedures Manual.

WHEREAS, the City of Morristown seeks to continually develop, restore and improve upon the housing stock within the City; and

WHEREAS, the City applied to the Tennessee Housing Development Agency (THDA) in 2015 for funding through the HOME Grant application process to provide assistance to qualifying homes and families; and

WHEREAS, the City of Morristown was awarded a grant contract in the amount of \$375,000 to provide housing rehabilitation to low income families within the City; and

WHEREAS, the City has posted an Environmental Review Record and Notice of Intent to Request the Release of Funds to THDA for implementation of the HOME Grant program; and

WHEREAS, as a requirement of the Grant the City must adopt Program Policies and Procedures to comply with THDA policies to implement the grant;

NOW, THEREFORE BE IT RESOLVED that the elected governing body of the City of Morristown, Tennessee, adopt the HOME Program Policies and Procedures for the City of Morristown Homeowner Rehabilitation Program.

Adopted this the 2nd day of February, 2016.

MAYOR

ATTEST:

CITY ADMINISTRATOR

Councilmember Pedigo made a motion to approve Ordinance No. 3531 on first reading and schedule a public hearing relative to final passage of said ordinance for February 16, 2016. Councilmember Alvis seconded the motion and upon roll call; all voted: "aye".

Ordinance No. 3531
Being an Ordinance of the City Council of Morristown, Tennessee
Amending Title 16, Chapter 1, Section 114, of the Morristown
Municipal Code. (Special Uses Regulated)

Councilmember Bivens made a motion to approve Ordinance No. 3532 on first reading and schedule a public hearing relative to final passage of said ordinance for February 16, 2016. Councilmember Pedigo seconded the motion and upon roll call; all voted: "aye".

Ordinance No. 3532
Being an Ordinance of the City Council for the City of Morristown,
Tennessee, Amending Title 9, Chapter 2, of the Morristown Municipal
Code. (Farmers Market)

Councilmember Senter made a motion to approve Change Order #1 for the security fencing project at Morristown Regional Airport to McCall Fencing, Inc., in the amount of \$39,975.00. Councilmember Alvis seconded the motion and upon roll call; all voted: "aye".

Councilmember Smith made a motion to approve the bid/contract for survey equipment to Precision Products, LLC, in the total amount of \$40,154.15. Councilmember Bivens seconded the motion and upon roll call; all voted: "aye".

Councilmember Senter made a motion to approve phase III of Petosky Plastics sinkhole remediation to Summers-Taylor, Inc., for the estimated cost of \$165,884.50. Councilmember Bivens seconded the motion and upon roll call; all voted: "aye".

Mayor Chesney re-appointed William J. Blackburn to the Morristown Housing Authority for a five (5) year term; term expiring February 15, 2021.

Councilmember Alvis nominated Susan Wampler to the Parks & Recreation Advisory Board to fill the remaining term of Tina Dearing; term expiring June 1, 2017. Councilmember Pedigo made a motion to close nominations and elect Ms. Wampler by acclamation. Councilmember Senter seconded the motion and upon roll call; all voted "aye".

Mayor Chesney adjourned the February 2, 2016, City Council meeting at 5:22 p.m.

MAYOR

ATTEST:

CITY ADMINISTRATOR

**ORDINANCE NO. 3531
BEING AN ORDINANCE OF THE CITY COUNCIL OF MORRISTOWN,
TENNESSEE AMENDING TITLE 16, CHAPTER 1, SECTION 114 OF THE
MORRISTOWN MUNICIPAL CODE.**

Be it ordained by the City Council for the City of Morristown that the text of Section 114 of Chapter 1 of Title 16 of the Morristown Municipal Code is hereby deleted in its entirety and substituted therefore is the following:

Section 16-114. Special Uses Regulated. It shall be unlawful for any club, organization, or similar group to hold any meeting, parade, demonstration, or exhibition on the public streets without first securing a Special Use Permit from the City Administrator or his designee. No permit shall be issued that does not comply with the Special Use Permit Application requirements. The permit shall not be granted unless such proposed activity will not unreasonably interfere with traffic, and unless a representative from the organization agrees to immediately clean up any and all litter which may be left on the streets or sidewalks as a result of the activity. It shall be unlawful for any organization and representative obtaining such a permit to fail to carry out the agreement to immediately clean up the resulting litter. If the terms and conditions of the Application and Permit are not followed, additional fees may be charged in accordance with the permit application guidelines. Fees for the Special Use Permit include a ten dollar (\$10.00) application fee and a two hundred and fifty dollar (\$250.00) refundable damage/clean-up deposit that must be submitted at least twenty (20) days prior to the event. Any additional fees will be charged in accordance with the permit application guidelines.

This ordinance shall take effect upon second and final reading, the public welfare requiring same.

PASSED ON FIRST READING THIS THE 2ND DAY OF FEBRUARY, 2016.

MAYOR

ATTEST:

CITY ADMINISTRATOR

PASSED ON SECOND AND FINAL READING THIS THE 16TH DAY OF FEBRUARY, 2016.

MAYOR

ATTEST:

CITY ADMINISTRATOR

ORDINANCE NO. 3532
BEING AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY
OF MORRISTOWN TENNESSEE, AMENDING TITLE 9 OF THE
MORRISTOWN MUNICIPAL CODE.

BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF MORRISTOWN
TENNESSEE, THAT TITLE 9 OF THE MUNICIPAL CODE IS AMENDED AS
FOLLOWS:

TITLE 9

Chapter 2

Chapter 2 Downtown Market is deleted in its entirety and substituted therefore is
the following:

Chapter 2
Farmers Market

SECTION

9-201. Establishment and bounds of the Farmers Market. There is hereby
established within the limits of the City of Morristown, Tennessee, a downtown
market, hereinafter referred to as the "farmers market", upon a tract located at 130
West Morris Boulevard at the site of the pavilion.

9-202. Purpose and intent. The purpose and intent of the farmers market shall be to
provide a pavilion setting in the historical, central business district of the city that provides
farmers, crafters, artisans and vendors the opportunity to sell fresh garden produce, agricultural
products, plants, perennials and annuals, herbs, food and hand-made crafts and provide a
gathering place for pedestrians to intermingle and enjoy live entertainment.

9-203. General rules of use. The following rules shall apply for farmers, vendors,
artisans, crafters and others who wish to sell produce, food, goods or other items within the
bounds of the market:

- (1) The city administrator shall undertake or designate supervision of the farmers
market. That designated person or entity shall be referred to in this ordinance as
"supervisor". The duty of the supervisor is to ensure compliance with all city
codes and ordinances including the provisions set forth herein. The initial
supervisor, shall be the Crossroads Downtown Partnership, Inc., and shall have
the authority to issue and revoke permits to farmers and vendors who make
application to sell produce, food, items or goods in accordance with the provisions
set forth herein.
- (2) There shall be two (2) classifications for anyone wishing to sell produce and farm
products, food, handmade items, fine crafts, or other similar items at the market:

- a) Farmers: For the purposes of this chapter, farmers shall be:
 - i. Those persons who grow all or at a minimum fifty-one percent (51%) of their own produce or other farm products by daily volume, which are grown within 100 miles of the market; and
 - ii. Those persons who have been inspected by the Hamblen County, University of Tennessee Agriculture Extension Office and received an acceptable certification from said office;
 - iii. Those persons displaying the certification set forth above ARE subject to re-inspection at any time by the supervisor and/or the supervisor's his appointees.

And

- b) Vendors: For the purposes of this chapter, vendors shall be:
 - i. Any person approved to have space at the market for retail sales of firewood, seafood caught by the seller, or handmade fine craft items who is not a farmer as set forth above in § 9-203(2)(a).
- (3) Spaces for the purpose of displaying and selling at the market shall be leased by the supervisor ~~city~~ to the farmers and vendors.
- a) A permit shall be issued by the supervisor to each farmer and vendor who occupies space on the market.
 - i. The supervisor-issued permit shall be clearly posted on the premises leased to each farmer or vendor.
 - ii. Any and all required business licenses issued by the City of Morristown and Hamblen County shall be clearly posted on the premises upon which is leased to each farmer or vendor.
 - iii. Any and all required state or federally issued permits or certifications by the U.S. Department of Agriculture or other government agency shall be clearly posted on the premises upon which is leased to each farmer or vendor.
 - iv. Vendors and farmers shall be responsible for paying all applicable sales taxes and clearly posting verification to that effect.
 - v. Each space shall be the area of a typical parking space ~~at-on~~ the market pavilion plus a space in the pavilion that is a reasonable extension under the pavilion roof allowing for a central area for shoppers and others to safely walk and view the products for sale.
 - vi. Farmers and vendors may lease multiple spaces with the approval of the supervisor.
 - vii. The rates for space(s) leased on the market shall be established by the supervisor stipulating the daily or monthly rental rates for space at the market pavilion, which may be changed from time to time by the supervisor in consultation with and approved by the governing body.
 - viii. Stall distribution and location within the pavilion shall be at the discretion of the supervisor consistent with the best interest of the market.
 - ix. Farmers and vendors shall park their commercial vehicles, box trucks, trailers, etc. in an area designated for such purpose.
 - x. Parking for farmers, vendors and the public shall be within designated

parking spaces.

- xi. No farmer or vendor shall alter or damage any pavilion and/or ancillary structure, shelter or canopy provided by the city. Anyone altering or causing damage to any city property shall be held accountable for reimbursement to the city to cover repair or replacement of such property and shall forfeit their privilege to operate on the market until such reimbursement is secured from the farmer or vendor by the city and authorized by the supervisor to return.
 - xii. No farmer or vendor shall leave vehicles, trailers, wagons or any other vehicle, apparatus, items the farmer or vendor sells, or structure on the premises of the market after the operating business hours of the market.
- (4) All processed foods offered for sale to the public shall comply with the requirements set forth by federal, state and local laws, regulations and rules. Copies of certifications issued in compliance with these laws and regulations shall be provided as part of the application to be a farmers market farmer or vendor.
 - (5) Farmers and vendors shall clearly post prices on all produce or items being sold. Farmers shall also place on their signage the name of the item, the farm where it originated, the county in which it is located, and other information that may be required by the supervisor in accordance with widely-accepted good practices for Tennessee Farmers Markets.
 - (6) Scales utilized at market must be inspected and sealed annually by the Tennessee Department of Agriculture and must be clearly posted as approved.
 - (7) Farmers and vendors shall carry insurance in minimum liability amounts as set by the governing body to cover personal injury, product liability, and property damage prior to the issuance of a permit. Proof of insurance shall be kept current throughout the duration of the vendor occupying space on the market and shall be provided to the supervisor and kept on premises. Such policies of insurance shall name the city as an additional insured.
 - (8) Farmers and vendors shall assume all responsibility for any losses of property or money from the market site. Farmer and vendor spaces may never be left unattended. The city assumes no responsibility for lost, stolen or damaged goods or property.
 - (9) Farmers and vendors shall be responsible for keeping the premises of their assigned space in a clean and neat manner, free of refuse, litter, debris, and/or garbage. Each farmer and vendor is responsible for maintaining his area throughout business hours and cleaning the area daily which includes but is not limited to removing all produce, food, products or items for sale from the market premises before departing for the day. Items for disposal shall be placed in garbage bags and then may be deposited in trash containers provided for that purpose.
 - (10) The farmers market shall operate year round as weather permits in accordance with a safety plan to be developed in consultation with and approved by the governing body.
 - (11) Farmers and vendors shall not issue any information, publication, document or article for publication concerning the market without prior written approval by the supervisor.
 - (12) Farmers and vendors shall present and conduct themselves in such a manner so as to

not have a negative impact upon the market, to the public, the City of Morristown, or other farmers and vendors. This includes, but is not limited to:

- i. Use of profanity;
- ii. Use of alcohol, tobacco products or other illegal or controlled substances;
- iii. Shoes and shirts must be worn at all times

9-204. Prohibited uses. (1) It shall be unlawful to obstruct or impede traffic access, egress and circulation upon the market.

- (2) Any use not specified as a permitted use in this section shall be prohibited upon the premises of the market, subject to review and approval by the supervisor.
- (3) Automobiles for sale shall not be permitted upon the premises of the market nor shall items that would be associated with a yard sale or flea market.
- (4) Livestock, chickens or other animals shall not be permitted upon the premises of the market except for service animals. This section does not prohibit the sale of meat, poultry, fish, or seafood that has been prepared and is presented for sale in accordance with federal, state and local laws and regulations.
- (5) Any use that produces noxious smoke, fumes, noise, odor or other offensive effect to the senses, including but not limited to fuel powered-generators, shall not be permitted upon the premises of the market.
- (6) No one shall engage in solicitation, collection drives, political or religious activities in the market.
- (7) No loud hawking of items is allowed on the premises of the market.
- (8) No pavilion or shelter provided by the city shall be altered in any manner without prior written approval by the supervisor.

9-205. Enforcement. (1) The supervisor and/or the supervisor's designees are hereby authorized and directed to enforce all of the provisions of this article. This authority empowers such individuals to perform any inspections and to issue related rules and citations for the enforcement of this section.

- (2) Farmers and vendors should promptly report any suspected offenses to the supervisor.
- (3) Any farmer or vendor found to be out of compliance with the ordinance comprising this section shall receive one (1) written warning from the supervisor or other authorized city employee. If the noncompliant farmer or vendor does not comply he will be barred from the market for the remainder of the season and forfeit any amount of monthly lease currency rent paid to the supervisor to operate at the market. His or her permit shall be revoked.
- (4) Any vendor found selling a tangible item on the market that is not garden produce, agricultural products, plants, perennials, annuals, herbs, food or hand-made art or crafts will be in violation of this chapter and will be subject to being banned from the market for the season and permit revocation.
- (5) Each day that a violation of this chapter remains shall constitute a separate violation of the chapter for the purposes of the court's assessment of fines or penalties.
- (6) In case of conflict between this chapter or any part hereof, and the whole or part of any existing ordinance of the city, the provision that establishes the higher standard

shall prevail.

- (7) If any section, subsection, clause, provision or portion of this chapter is held to be invalid or unconstitutional by any court or competent jurisdiction, such holding shall not affect any other section, subsection, clause, provision or portion of the chapter. It is the specific intention of the city that each provision in the chapter stand or fall on its own, and not rely upon the effectiveness of other provisions in the chapter

9-206. Review of Ordinance. There shall be an annual review of Title 9, Chapter 2, Morristown Farmers Market ordinance by the supervisor and the governing body.

PASSED ON FIRST READING THIS THE 2ND DAY OF FEBRUARY, 2016.

MAYOR

ATTEST:

CITY ADMINISTRATOR

PASSED ON SECOND AND FINAL READING THIS THE 16TH DAY OF FEBRUARY, 2016.

MAYOR

ATTEST:

CITY ADMINISTRATOR

**ORDINANCE NO. _____
BEING AN ORDINANCE OF THE CITY COUNCIL FOR THE
CITY OF MORRISTOWN, TENNESSEE, AMENDING TITLE 1
OF THE MORRISTOWN MUNICIPAL CODE.**

**BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF MORRISTOWN
TENNESSEE, THAT TITLE 1 OF THE MUNICIPAL CODE IS AMENDED AS
FOLLOWS:**

**TITLE 1
GENERAL ADMINISTRATION**

**Chapter 1
Municipal Wards**

SECTION

Sec. 1-102. Polling places and general city elections, is deleted in its entirety.

**Chapter 2
City Council**

**Sec. 1-207. General rules of order, is deleted in its entirety and substituted
therefore is the following:**

1-207. General rules of order.

**The rules of order and parliamentary procedure contained in Robert's Rules
of Order Newly Revised, 11th Edition, shall govern the transaction of business by
and before the city council at its meetings in all cases to which they are applicable
and in which they are not inconsistent with provisions of the charter, this code, or
other ordinances of the city.**

**Chapter 3
Mayor**

Sec. 1-301. Presiding officer of council, is deleted in its entirety.

**Sec. 1-303. Jurisdiction to try offenses under city ordinances, is deleted in its
entirety.**

Sec. 1-304. Authority to summon aid, is deleted in its entirety.

**Chapter 4
City Administrator**

Sec. 1-401. To be bonded, is deleted in its entirety.

Sec. 1-402. Duties as executive head, section (a) is deleted in its entirety.

Sec. 1-403. Authority to summon aid is added.

Sec. 1-403. Authority to summon aid.

The city administrator may summon the police of the city to aid in preventing or quelling any riot, unlawful assembly, or breach of the peace.

Sec. 1-404. Is added to read as follows:

Sec. 1-404. Sec. 1-503. City Administrator as clerk.

The City Administrator or his designee shall assume the duties previously held by the City Recorder. The City Administrator or designee will act as clerk of the city and the city council. The clerk shall:

- (1) Attend all meetings of the city council.
- (2) Keep a record of the proceedings at all meetings of the city council.
- (3) Keep, in a well-bound book, a copy of all ordinances, resolutions, and orders of the city council.
- (4) Have custody of and preserve in his office the city seal, all public records of the city, providing copies and certifying copies of official records, papers and documents per TCA §6-54-120(1)(D).
- (5) Have power to administer oaths.
- (6) Keep a record of all licenses and permits issued on behalf of the city.

Sec. 1-405. Is added to read as follows:

Sec. 1-405. City Administrator as treasurer.

The City Administrator or his designee shall act as treasurer of the city. All funds belonging to the city shall be placed in the city depository. The treasurer shall:

- (1) Be the custodian of all funds of the city.
- (2) Pay out of the funds of the city, from time to time, upon the order of the city council.

- (3) Draw checks on the city funds, which checks shall be signed by two of the following: City Administrator and countersigned by the mayor or assistant city administrator and countersigned by the administrative services director. Such checks shall show on their face the account on which they are drawn.
- (4) At the end of each month, have the accounts balanced at the city depository and have the exact status of the accounts ascertained.
- (5) Keep accounts separate. For example, the general account shall be kept separate from all special accounts.
- (6) Keep a record of all money accruing to the city from rents, leases, licenses, contracts, franchises, or any other source whatsoever, and of all deeds, bonds, notes, mortgages, agreements, and obligations. If any person shall fail or refuse to comply with agreement, note, bond, mortgage, contract, covenant, or other obligation, the City Administrator or his designee as recorder shall notify the city council of such failure or refusal. The city council may direct such obligation to be sued for or may take such other action as they shall deem expedient to force compliance therewith.
- (7) Collect all debts that may come due to the city from rents, leases, fines, or from any source whatsoever.
- (8) Provide monthly or special financial statements.

Sec. 1-406. Is added to read as follows:

Sec. 1-406. Additional duties.

The City Administrator has the duty to hire someone as "City Engineer". The city administrator shall designate a person or outside agencies to perform the function of city engineer and the person or outside agencies may be discharged by the city administrator at any time. Any reference to the City Engineer, City Recorder, Tax Collector, etc., will fall under the duties and authority of the City Administrator or his designee.

The City Administrator or his designee shall have such additional duties as may be imposed upon him by general state law, the charter of the city, or by the city council.

Chapter 5

Title of Recorder, is deleted in its entirety

Chapter 6

City Attorney

Sec. 1-603. Qualifications, is deleted in its entirety and substituted therefore the following:

Sec. 1-603. Qualifications.

The city attorney shall be a licensed attorney entitled to practice in the courts of the state of Tennessee.

Chapter 7
City Engineer

Title of City Engineer, is deleted in its entirety

PASSED ON FIRST READING THIS THE DAY OF 2016.

ATTEST: _____ MAYOR

CITY ADMINISTRATOR

PASSED ON SECOND AND FINAL READING THIS THE DAY OF
2016.

ATTEST: _____ MAYOR

CITY ADMINISTRATOR

TITLE 1 - GENERAL ADMINISTRATION^[1]

~~Sec. 1-102. Polling places and general city elections.~~

~~The polling places for holding general city elections shall be as provided in T.C.A. § 2-3-101 et seq.~~

CHAPTER 2 - CITY COUNCIL^[3]

~~Sec. 1-207. General rules of order.~~

~~The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the city council at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter, this code, or other ordinances of the city.~~

Sec. 1-207. General Rules of order.

The rules of order and parliamentary procedure contained in Robert's Rules of Order Newly Revised, 11th Edition, shall govern the transaction of business by and before the city council at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter, this code, or other ordinances of the city.

CHAPTER 3 - MAYOR^[4]

~~Sec. 1-301. Presiding officer of council.~~

~~The mayor shall preside over all meetings of the city council.~~

~~Sec. 1-303. Jurisdiction to try offenses under city ordinances.~~

~~The mayor shall have concurrent jurisdiction with the recorder in the trial of persons accused of violating the provisions of this code or any other ordinance of this city.~~

~~Sec. 1-304. Authority to summon aid.~~

~~The city administrator may summon the police, the military of the city, and the citizens of the city to aid in preventing or quelling any riot, unlawful assembly, or breach of the peace. All persons so summoned shall be subject to the orders of the city administrator until they are released by the city administrator.~~

CHAPTER 4 - CITY ADMINISTRATOR^[5]

~~Sec. 1-401. To be bonded.~~

~~The city administrator shall, before entering upon the duties of his office, be bonded in such sum as may be fixed by, and with such surety as may be acceptable to, the city council.~~

Sec. 1-402. - Duties as executive head.

(a) ~~The city administrator shall serve as the executive head of the city government and is responsible only to the city council as a body. He shall be responsible for the enforcement of laws, rules and regulations, ordinances and franchises of the city. He shall direct the city attorney to take legal action as he deems necessary. The city administrator is vested with authority by virtue of the city charter with the following: appointing, promoting, demoting, transferring, suspending, and removing all~~

~~department heads and employees; the administrator is responsible for directing and controlling all work except as otherwise provided by the city charter. He shall attend all meetings of the city council when possible to do so and he shall submit the annual budget and such other reports and information as he deems necessary or that city council may require. He shall have authority to make allotments of funds within the limits of appropriations and no expenditure shall be made without his approval. All acts performed by the city administrator pursuant to the authority granted by this section shall be subject to review by the city council and any authority granted to the city administrator by § 4 of the City Charter may be enlarged or diminished three fifths of said council concurring.~~

- (b) The city administrator is designated as the chief administrative officer of the city for the purposes of T.C.A. title 38, chapter 9 (civil emergencies). The mayor is designated as the substitute officer of the city pursuant to T.C.A. section 38-9-101(4).

Sec. 1-403. is added to read as follows:

Sec. 1-403. Authority to summon aid.

The city administrator may summon the police of the city to aid in preventing or quelling any riot, unlawful assembly, or breach of the peace.

Sec. 1-404. Is added to read as follows:

Sec. 1-404. Sec. 1-503. City Administrator as clerk.

The City Administrator or his designee shall assume the duties previously held by the City Recorder. The City Administrator or designee will act as clerk of the city and the city council. The clerk shall:

- (1) Attend all meetings of the city council.
- (2) Keep a record of the proceedings at all meetings of the city council.
- (3) Keep, in a well-bound book, a copy of all ordinances, resolutions, and orders of the city council.
- (4) Have custody of and preserve in his office the city seal, all public records of the city, providing copies and certifying copies of official records, papers and documents per TCA §6-54-120(1)(D).
- (5) Have power to administer oaths.
- (6) Keep a record of all licenses and permits issued on behalf of the city.

Sec. 1-405. Is added to read as follows:

Sec. 1-405. City Administrator as treasurer.

The City Administrator or his designee shall act as treasurer of the city. All funds belonging to the city shall be placed in the city depository. The treasurer shall:

- (1) Be the custodian of all funds of the city.
- (2) Pay out of the funds of the city, from time to time, upon the order of the city council.
- (3) Draw checks on the city funds, which checks shall be signed by two of the following: City Administrator and countersigned by the mayor or assistant city administrator and countersigned by the administrative services director. Such checks shall show on their face the account on which they are drawn.
- (4) At the end of each month, have the accounts balanced at the city depository and have the exact status of the accounts ascertained.
- (5) Keep accounts separate. For example, the general account shall be kept separate from all special accounts.
- (6) Keep a record of all money accruing to the city from rents, leases, licenses, contracts, franchises, or any other source whatsoever, and of all deeds, bonds, notes, mortgages, agreements, and obligations. If any person shall fail or refuse to comply with agreement, note, bond, mortgage, contract, covenant, or other obligation, the City Administrator or his designee as recorder shall notify the city council of such failure or refusal. The city council may direct such obligation to be sued for or may take such other action as they shall deem expedient to force compliance therewith.
- (7) Collect all debts that may come due to the city from rents, leases, fines, or from any source whatsoever.
- (8) Provide monthly or special financial statements.

Sec. 1-406. Is added to read as follows:

Sec. 1-406. Is added to read as follows:

Sec. 1-406. Additional duties.

The City Administrator has the duty to hire someone as "City Engineer". The city administrator shall designate a person or outside agencies to perform the function of city engineer and the person or outside agencies may be discharged by the city administrator at any time. Any reference to the City Engineer, City Recorder, Tax Collector, etc., will fall under the duties and authority of the City Administrator or his designee.

The City Administrator or his designee shall have such additional duties as may be imposed upon him by general state law, the charter of the city, or by the city council.

~~CHAPTER 5 – RECORDER~~^[6]

Title of Recorder, is deleted in its entirety

~~Sec. 1-501.—Bond as recorder.~~

~~The recorder shall, before beginning the duties of his office, give a bond as recorder, in the amount of \$150,000.00, conditioned to safely keep the records of the city and to account for all money received by him as recorder. Such bond shall be approved by the city council and shall be entered of record in the minute book of the city.~~

~~(1979 Code, § 1-501)~~

~~Sec. 1-502.—Reserved.~~

~~Editor's note—Ord. No. 2859, adopted Oct. 1996, repealed former § 1-502.~~

~~Sec. 1-503.—Duties as clerk.~~

~~The recorder shall act as clerk of the city and the city council. In such capacity, he shall:~~

- ~~(1) Attend all meetings of the city council.~~
- ~~(2) Keep a record of the proceedings at all meetings of the city council.~~
- ~~(3) Keep, in a well-bound book, a copy of all ordinances, resolutions, and orders of the city council.~~
- ~~(4) Have custody of and preserve in his office the city seal, all public records of the city, contracts, bonds, title deeds, certificates, papers, all official and indemnity or security bonds, except his own bonds, which shall be in the custody of the mayor, and all other bonds, oaths, affirmations, and all other records, papers, and documents not required by charter or state law to be deposited elsewhere.~~
- ~~(5) Have power to administer oaths.~~
- ~~(6) Keep a record of all licenses and permits issued on behalf of the city.~~

~~Sec. 1-504.—Duties as treasurer.~~

~~The recorder shall act as treasurer of the city. All funds belonging to the city shall be placed in the city depository to the credit of the recorder. In his capacity as treasurer, the recorder shall:~~

- ~~(1) Be the custodian of all funds of the city.~~
- ~~(2) Pay out of the funds of the city, from time to time, upon the order of the city council or the city administrator.~~
- ~~(3) Draw checks on the city funds to his credit, which checks shall be signed by him and countersigned by the mayor or city administrator. Such checks shall show on their face the account on which they are drawn.~~
- ~~(4) At the end of each month, have his accounts balanced at the city depository and have the exact status of his accounts ascertained.~~
- ~~(5) Keep his accounts separate. For example, the general account shall be kept separate from all special accounts.~~
- ~~(6) Keep a record of all money accruing to the city from rents, leases, licenses, contracts, franchises, or any other source whatsoever, and of all deeds, bonds, notes, mortgages, agreements, and obligations. If any person shall fail or refuse to comply with his agreement, note, bond, mortgage, contract, covenant, or other obligation, the recorder shall notify the city~~

~~council of such failure or refusal. The city council may direct such obligation to be sued for or may take such other action as they shall deem expedient to force compliance therewith.~~

~~(7) Collect all debts that may come due to the city from rents, leases, fines, or from any source whatsoever.~~

~~(8) Provide monthly or special financial statements.~~

Cross reference—Municipal finance and taxation, title 5.

~~Sec. 1-505. Bond and duties as tax collector.~~

~~The recorder shall act as tax collector for the city. In such capacity, he shall be bonded in the sum of \$150,000.000 in addition to his bond as recorder. He shall have the powers and perform the duties assigned to him by section 5, subsection 29, of the City Charter.~~

Cross reference—Municipal finance and taxation, title 5.

~~Sec. 1-506. Additional duties.~~

~~The recorder shall have such additional duties as may be imposed upon him by general state law, the charter of the city, or by the city council.~~

CHAPTER 6 - CITY ATTORNEY

~~Sec. 1-603. Qualifications.~~

~~The city attorney shall be an attorney at law entitled to practice in the courts of the state. The city attorney shall be a resident of the city.~~

~~Sec. 1-603. Qualifications.~~

~~The city attorney shall be a licensed attorney entitled to practice in the courts of the state of Tennessee.~~

CHAPTER 7—CITY ENGINEER^[2]

Cross reference—Plans and specifications for sidewalks, curbs, and gutters, title 16, ch. 3.

~~Sec. 1-701. Office created.~~

~~There is hereby created the office of city engineer.~~

~~(1979 Code, § 1-801)~~

~~Sec. 1-702. Appointment; term of office.~~

~~The city engineer shall be selected by the city administrator. He shall serve at the pleasure of the administrator and may be discharged at any time by him.~~

~~(1979 Code, § 1-802)~~

~~Sec. 1-703.—Duties generally.~~

~~The city engineer shall serve as the engineer of the city, and shall have such other duties as may be imposed upon him by the city council.~~

**ORDINANCE NO. _____
BEING AN ORDINANCE OF THE CITY COUNCIL FOR THE
CITY OF MORRISTOWN, TENNESSEE, AMENDING TITLE 2,
CHAPTER 4 OF THE MORRISTOWN MUNICIPAL CODE.**

**BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF MORRISTOWN
TENNESSEE, THAT TITLE 2 OF THE MUNICIPAL CODE IS AMENDED AS
FOLLOWS:**

**TITLE 2
BOARDS AND COMMISSIONS, ETC.**

**Chapter 4
Morristown Utilities Commission**

Chapter 4. Morristown utilities commission, is deleted in its entirety.

PASSED ON FIRST READING THIS THE _____ DAY OF _____, 2016.

MAYOR

ATTEST:

CITY ADMINISTRATOR

**PASSED ON SECOND AND FINAL READING THIS THE _____ DAY OF _____,
2016.**

MAYOR

ATTEST:

CITY ADMINISTRATOR

TITLE 2 - BOARDS AND COMMISSIONS, ETC.

Chapter 4. Morristown utilities commission, is deleted in its entirety.

~~CHAPTER 4—MORRISTOWN UTILITIES COMMISSION^(a)~~

~~Sec. 2-401.—Morristown utilities commission.~~

~~Private Acts 1991 Chapter 392, as amended, designates the city utilities commission to manage all municipal utilities and provides for membership, terms of office, powers and duties, etc. of the "commissioners."~~

**ORDINANCE NO. _____
BEING AN ORDINANCE OF THE CITY COUNCIL FOR THE
CITY OF MORRISTOWN, TENNESSEE, AMENDING TITLE 3
OF THE MORRISTOWN MUNICIPAL CODE.**

**BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF MORRISTOWN
TENNESSEE, THAT TITLE 3 OF THE MUNICIPAL CODE IS AMENDED AS
FOLLOWS:**

**TITLE 3
MUNICIPAL COURT**

**Chapter 1
City Court**

SECTION

Sec. 3-101. Issuance of warrant for arrest of offenders, is deleted in its entirety.

Sec. 3-102. Order of trial of offenders; continuance of cases, is deleted in its entirety and substituted therefore is the following:

Sec. 3-102 City Court Procedure.

All persons accused of violating the provisions of this code or other city ordinances shall appear at City Court on the day and time stated on the warrant or citation. Upon his or her appearance in Court, he or she shall check-in with the City Judge's clerk. The City Judge or his clerk shall schedule the order of trials. If either the City or the Defendant requests a continuance, upon a showing of good cause, the City Judge may continue the case to a date certain.

Sec. 3-103. Collection of fines and costs; imprisonment for failure to pay fine, is deleted in its entirety.

Sec. 3-104. Responsibility of officers to obtain security before releasing persons convicted of offenses, is deleted in its entirety.

Sec. 3-105. Power of mayor, recorder, and police to make arrests, is deleted in its entirety.

Sec. 3-106. Authority of mayor and recorder to punish for contempt, is deleted in its entirety and substituted therefore the following:

Sec. 3-106. Authority of city court to punish for contempt

The city court shall have power to the same extent as have general sessions courts under the laws of the state to punish for any contempt of court in the trial of any case before them.

Sec. 3-107. Summons-failure to appear or testify, is deleted in its entirety and substituted therefore the following:

Sec. 3-107. Summons – failure to appear or testify.

It shall be unlawful for any person to fail to appear or, on appearing, refuse to testify in any case before the city court, after being duly summoned by the chief of police or other proper officer. Such person shall also be guilty of a contempt of court, and may be fined therefor in accordance with the general penalty clause of this code.

Sec. 3-109. Court costs, is deleted in its entirety and substituted therefore is the following:

Sec. 3-109. Court costs.

When imposed, court costs, including clerical fees for all municipal charges shall be set at \$25.00 per charge. Such costs are in addition to state and municipal litigation taxes.

Chapter 2 City Judge

Sec. 3-203. Trial jurisdiction, is deleted in its entirety and substituted therefore the following:

Sec. 3-203. Trial jurisdiction.

The city judge shall have jurisdiction to try violations of the Morristown Municipal Code and other ordinances of this city. The City Judge shall also have jurisdiction to enforce any municipal law or ordinance that mirrors, substantially duplicates or incorporate by cross-reference the language of a state criminal statute, if and only if the state criminal statute mirrored, duplicated or cross-references is a Class C misdemeanor and the maximum penalty prescribed by municipal law or ordinance is a civil fine not in excess of fifty (\$50.00).

He shall have power and authority to impose fines, costs, and forfeitures for violations of the ordinances of this city; to preserve and enforce order in his court and to enforce the collection of all fines costs, and forfeitures imposed by him.

He shall keep or cause to be kept a court docket embodying complete detailed records of all cases handled by him.

PASSED ON FIRST READING THIS THE DAY OF , 2016.

MAYOR

ATTEST:

CITY ADMINISTRATOR

PASSED ON SECOND AND FINAL READING THIS THE DAY OF
 , 2016.

MAYOR

ATTEST:

CITY ADMINISTRATOR

TITLE 3 - MUNICIPAL COURT^[1]

CHAPTER 1 - CITY COURT^[2]

~~Sec. 3-101. Issuance of warrant for arrest of offenders.~~

~~Whenever complaint is made upon oath to the mayor or recorder that a misdemeanor has been committed within the city or that any person has violated any of the provisions of this code or other city ordinance, the official to whom the complaint is made shall immediately issue a warrant, directed to any lawful officer of the city, commanding the arrest of such offender. When police officers are absent or incapacitated and the business urgent, the mayor or recorder may appoint a special officer to arrest such offender, who shall have all the authority of a policeman.~~

~~The warrant mentioned in this section shall run in the name of the state and the city against the person therein charged with committing the offense.~~

~~Sec. 3-102 Order of trial of offenders; continuance of cases.~~

~~All persons accused of violating the provisions of this code or other city ordinances shall be tried in the order of their arrest, unless the court is satisfied that the city or any defendant is not ready to proceed in that order. The mayor or recorder shall have the right to continue all cases before them, upon showing of good cause, for a period not longer than seven days.~~

Sec. 3-102. Order of trial of offenders; continuance of cases, is deleted in its entirety and substituted therefore is the following:

Sec. 3-102 City Court Procedure.

All persons accused of violating the provisions of this code or other city ordinances shall appear at City Court on the day and time stated on the warrant or citation. Upon his or her appearance in Court, he or she shall check-in with the City Judge's clerk. The City Judge or his clerk shall schedule the order of trials. If either the City or the Defendant requests a continuance, upon a showing of good cause, the City Judge may continue the case to a date certain.

~~Sec. 3-103. Collection of fines and costs; imprisonment for failure to pay fine.~~

~~All persons convicted and fined and held in custody for an offense against this code or other city ordinances shall be released upon payment of such fine and costs or upon giving good and sufficient security therefor, payable at the end of 30 days, at the end of which time, unless paid, any duly authorized official having jurisdiction shall issue execution against such offender and his security for the amount of such fine and costs.~~

~~Any person who shall fail or neglect to pay or secure such fine shall be committed to the workhouse or other place provided for such offender.~~

~~Sec. 3-104. Responsibility of officers to obtain security before releasing persons convicted of offenses.~~

~~Neither the recorder nor any other officer of the city shall release any persons adjudged guilty of violating any of the provisions of this code or other city ordinances and who has been fined therefor, unless such defendant shall first give good and valid security for the same and costs.~~

~~All fines and costs lost to the city and all damages resulting from insufficient appearance bonds, arising through the failure of the proper officer to take sufficient or proper security for either or both of the purposes indicated above, shall be charged to the officer causing the same, and shall be taken out of his salary as such official or recovered by proper action before any court having jurisdiction.~~

~~Sec. 3-105. Power of mayor, recorder, and police to make arrests.~~

~~The mayor or recorder shall have power equally with the police officers of the city to make arrests where offenses are committed in their presence. Policemen are empowered to make arrests in the following cases: With warrant, whenever such warrant shall come into their hand; without warrant, where an offense is committed in their presence; or, whenever the fact that a misdemeanor has been immediately committed is brought to their notice.~~

~~Sec. 3-106. Authority of mayor and recorder to punish for contempt.~~

~~The mayor and recorder shall have power to the same extent as have general sessions courts under the laws of the state to punish for any contempt of court in the trial of any case before them and in any other case where such power is given to general sessions courts under the laws of the state.~~

Sec. 3-106. Authority of mayor and recorder to punish for contempt, is deleted in its entirety and substituted therefore the following:

Sec. 3-106. Authority of city court to punish for contempt

The city court shall have power to the same extent as have general sessions courts under the laws of the state to punish for any contempt of court in the trial of any case before them.

~~Sec. 3-107. Summons—failure to appear or testify.~~

~~It shall be unlawful for any person to fail to appear or, on appearing, refuse to testify in any case before the mayor or recorder, after being duly summoned by the chief of police or other proper officer. Such person shall also be guilty of a contempt of court, and may be fined therefor in accordance with the general penalty clause of this code.~~

Sec. 3-107. Summons-failure to appear or testify, is deleted in its entirety and substituted therefore the following:

Sec. 3-107. Summons – failure to appear or testify.

It shall be unlawful for any person to fail to appear or, on appearing, refuse to testify in any case before the city court, after being duly summoned by the chief of police or other proper officer. Such person shall also be guilty of a contempt of court, and may be fined therefor in accordance with the general penalty clause of this code.

~~Sec. 3-109. Court costs.~~

~~When imposed, court costs, including clerical fees for all municipal citations shall be set at \$25.00 per citation. Such costs are in addition to state and municipal litigation taxes.~~

Sec. 3-109. Court costs, is deleted in its entirety and substituted therefore is the following:

Sec. 3-109. Court costs.

When imposed, court costs, including clerical fees for all municipal charges shall be set at \$25.00 per charge. Such costs are in addition to state and municipal litigation taxes.

CHAPTER 2 - CITY JUDGE

~~Sec. 3-203. Trial jurisdiction.~~

~~The city judge shall have jurisdiction to try violations of the Morristown Municipal Code and other ordinances of this city. He shall keep a record of all fines and costs imposed by him.~~

~~He shall have power and authority to impose fines, costs, and forfeitures for violations of the ordinances of this city; to preserve and enforce order in his court and to enforce the collection of all fines, costs, and forfeitures imposed by him.~~

~~He shall keep or cause to be kept a court docket embodying complete detailed records of all cases handled by him.~~

Sec. 3-203. Trial jurisdiction, is deleted in its entirety and substituted therefore the following:

Sec. 3-203. Trial jurisdiction.

The city judge shall have jurisdiction to try violations of the Morristown Municipal Code and other ordinances of this city. The City Judge shall also have jurisdiction to enforce any municipal law or ordinance that mirrors, substantially duplicates or incorporate by cross-reference the language of a state criminal statute, if and only if the state criminal statute mirrored, duplicated or cross-references is a Class C misdemeanor and the maximum penalty prescribed by municipal law or ordinance is a civil fine not in excess of fifty (\$50.00).

He shall have power and authority to impose fines, costs, and forfeitures for violations of the ordinances of this city; to preserve and enforce order in his court and to enforce the collection of all fines costs, and forfeitures imposed by him.

He shall keep or cause to be kept a court docket embodying complete detailed records of all cases handled by him.

**ORDINANCE NO. _____
BEING AN ORDINANCE OF THE CITY COUNCIL FOR THE
CITY OF MORRISTOWN, TENNESSEE, AMENDING TITLE 4
OF THE MORRISTOWN MUNICIPAL CODE.**

**BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF MORRISTOWN
TENNESSEE, THAT TITLE 4 OF THE MUNICIPAL CODE IS AMENDED AS
FOLLOWS:**

**TITLE 4
MUNICIPAL PERSONNEL**

Title 4 Municipal Personnel, is deleted in its entirety and substituted therefore is the following:

Sec. 4-101. Declaration of policy.

The City of Morristown has hereby adopted personnel policies that apply fairly, impartially, and uniformly, to the extent practicable, to each department of the municipal government. A copy of these personnel policies are kept in the office of the City Administrator and will be made available to employees upon request.

Sec. 4-102. Travel and Expense policy.

The City of Morristown shall pay the expenses of the mayor or any member of the City Council, and any official or employee of the City, pursuant to the terms of the City's travel and expense reimbursement policy. A copy of this policy shall be kept in the office of the City Administrator and will be made available upon request.

PASSED ON FIRST READING THIS THE _____ DAY OF _____, 2016.

MAYOR

ATTEST:

CITY ADMINISTRATOR

PASSED ON SECOND AND FINAL READING THIS THE _____ DAY OF _____, 2016.

MAYOR

ATTEST:

CITY ADMINISTRATOR

TITLE 4 - MUNICIPAL PERSONNEL

Title 4 Municipal Personnel, is deleted in its entirety and substituted therefore is the following:

Sec. 4-101. Declaration of policy.

The City of Morristown has hereby adopted personnel policies that apply fairly, impartially, and uniformly, to the extent practicable, to each department of the municipal government. A copy of these personnel policies are kept in the office of the City Administrator and will be made available to employees upon request.

Sec. 4-102. Travel and Expense policy.

The City of Morristown shall pay the expenses of the mayor or any member of the City Council, and any official or employee of the City, pursuant to the terms of the City's travel and expense reimbursement policy. A copy of this policy shall be kept in the office of the City Administrator and will be made available upon request.

~~CHAPTER 1 - SOCIAL SECURITY~~

~~Sec. 4-101. Declaration of policy.~~

~~It is hereby declared to be the policy and purpose of the city to extend, as of the dates set forth in this chapter, to the employees and officials thereof not excluded by law or this chapter and whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance, by the Federal Social Security Act and amendments thereto, including Public Law 734, 81st Congress. In pursuance of such policy and for that purpose, the city shall take such action as may be required by applicable state or federal laws or regulations.~~

~~Sec. 4-102. Execution of agreements.~~

~~The mayor is hereby authorized and directed to execute all necessary agreements and amendments thereto with the director of old age and survivor's insurance agency of the state, to secure coverage of employees and officials, as provided in the preceding section.~~

~~Sec. 4-103. Withholdings from salaries of employees and officials.~~

~~Withholdings from salaries or wages of employees and officials of the city for the purposes provided in first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by such laws or regulations.~~

~~Sec. 4-104. Contributions by city.~~

~~There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employers' contributions, which shall be paid over to the state or federal agency designated by such laws or regulations.~~

~~Sec. 4-105. Records to be kept and reports made.~~

~~The city shall keep such records and make such reports as may be required by applicable state or federal laws or regulations.~~

~~Sec. 4-106. Exclusions.~~

~~There is hereby excluded from this chapter any authority to make any agreement with respect to any position or any employee or official now covered or authorized to be covered by another provision of this code or other ordinance creating any retirement system for any employee or official of the city. There is also hereby excluded from this chapter any authority to make any agreement with respect to any position, employee, or official not authorized to be covered under applicable state or federal laws or regulations, the mayor being specifically authorized to make and enter into an agreement with the state for the extension of the benefits of the system of federal old age and survivors insurance to include all other employees and officials of the city, effective April 1, 1952; except, that such agreement shall extend such benefits to include services of emergency employees, employees rendering services in fee based positions, and elective officials engaged in rendering legislative services as of January 1, 1961.~~

~~CHAPTER 2 PERSONNEL~~

~~Sec. 4-201. General provisions.~~

~~(a) This chapter shall be known as the personnel chapter and it is hereby the declared personnel policy of the city that:~~

- ~~(1) Employment in the city government shall be based on merit, fitness and equal opportunity, free of personal and political considerations.~~
- ~~(2) Just and equitable incentives and conditions of employment shall be established and maintained to promote efficiency and economy in the operation of the city government.~~
- ~~(3) Positions having similar duties and responsibilities shall be classified and compensated on a uniform basis.~~
- ~~(4) Appointments, promotions and other actions requiring the application of the merit principle shall be based on systematic test and evaluations. Testing may take the form of a rating assigned to training and experience.~~
- ~~(5) High morale shall be maintained by fair administration of this chapter and by every consideration of the rights and interests of the public and the city.~~
- ~~(6) Tenure of employees covered by this chapter shall be subject to:~~
 - ~~a. The satisfactory performance of work;~~
 - ~~b. The necessity for the performance of work; and~~
 - ~~c. The availability of funds.~~

~~Sec. 4-202. Scope.~~

~~(a) All offices and positions of the city are divided into the city service and the exempt service.~~

~~(b) The exempt service shall include the following:~~

- ~~(1) All elected officials and members of boards and commissions.~~
- ~~(2) Volunteer personnel and personnel appointed to serve without pay.~~
- ~~(3) Consultants and counsel rendering temporary professional service.~~
- ~~(4) Such positions involving seasonal or temporary part-time employment, or which as may be specifically placed in the exempt service by the personnel rules.~~
- ~~(5) Police and fire personnel (covered by Ordinance No. 1946 and the Civil Service Act).~~

- ~~(c) The city service shall include all other positions in the city organization that are not specifically placed in the exempt service or specifically mentioned by this chapter.~~
- ~~(d) When this chapter becomes effective, all persons then holding positions included in the city service:
 - ~~(1) Shall have permanent status if they have held their present positions for at least six months immediately preceding the effective date of this chapter; unless the probationary period has been extended in writing by the department head and approved by the city administrator or his designated assistant; or~~
 - ~~(2) Shall serve a probationary period of six months before acquiring permanent status if they have held their positions for less than six months immediately preceding the effective date of this chapter.~~~~
- ~~(e) The class in which each employee shall have status shall be determined in the manner provided in section 4-205.~~
- ~~(f) The following articles of this chapter apply only to the city service unless otherwise specifically provided.~~

~~Sec. 4-203. Administration.~~

- ~~(a) The personnel program established by this chapter shall be administered by a person designated by the city administrator as personnel director who shall:
 - ~~(1) Administer all the provisions of this chapter and of the personnel rules; and~~
 - ~~(2) Prepare and recommend revisions and amendments to the personnel rules and regulations as necessary.~~~~
- ~~(b) The council, upon recommendation of the personnel director and the city administrator, may contract with any qualified person or agency for the performance of such technical services as may be desired in the establishment and operation of the personnel program.~~

~~Sec. 4-204. Rules.~~

~~The personnel director shall draft, in consultation with the city administrator, such rules and regulations as may be necessary to carry out the provisions of this chapter.~~

~~Sec. 4-205. Classification.~~

- ~~(a) The personnel director shall make an analysis of the duties and responsibilities of all positions in the city service and shall recommend to the council a job classification plan. Each position in the city service shall be assigned a job class on the basis of the kind and level of its duties and responsibilities, to the end that all positions in the same class shall be sufficiently alike to permit use of a single descriptive title, the same qualifications requirements, the same test of competence, and the same pay scale. A job class may contain one or more positions. This pay scale may be amended by resolution to reflect a change in the cost of living if uniformly applied to all levels and steps.~~
- ~~(b) The classification plan shall be revised from time to time as changing conditions require, upon recommendation of the personnel director, city administrator and with the approval of the council. Such revisions may consist of the addition, abolishment, consolidation, division or amendment of existing classes. This procedure shall be outlined in the employee handbook.~~

~~Classes assigned to skill levels shall be as included in the classification compensation manual and amendments thereto.~~

~~Sec. 4-206. Compensation.~~

- ~~(a) The person designated as personnel director under the direction of the city administrator shall prepare a pay plan and rules for its administration. The rate or range for each class shall be, such as~~

~~to reflect fairly, the differences in duties and responsibilities and shall be related to compensation for comparable positions in other places of employment in the Morristown-Hamblen County Market area. There will be two classes of pay, weekly and bi-weekly.~~

- ~~(1) The city administrator shall not be a part of the pay schedule but said compensation shall be determined annually at the discretion of city council.~~
- ~~(b) The personnel director shall submit the pay plan and revisions to the council each year for adoption. The council may adopt the plan with or without amendment. All amendments shall apply uniformly to all positions within the same class.~~
- ~~(c) After the plan has been adopted by the council, the personnel director shall assign each job class to one of the pay ranges provided in the pay plan.~~
- ~~(d) The pay plan may be amended from time to time as circumstances require, either through adjustment of rates or by reassignment of job classes to different pay ranges provided in the pay plan.~~
- ~~(e) Salary schedule. Each step represents a 2½% increase rounded to the nearest cent.~~
- ~~(f) Generally, a new employee shall be paid the minimum rate of pay for a given job class. Exceptions may be granted in the following cases, upon the written approval of the city administrator.~~
 - ~~(1) The minimum rate for each class is based upon the assumption that a new employee meets the minimum qualifications stated in the class specification.~~
 - ~~(2) If a new employee exceeds the minimum qualifications, the employee may be appointed at the second step or in unusual cases at a higher step. This practice should be utilized sparingly. Each case should be thoroughly analyzed and measured against objective standards.~~
- ~~(g) The anniversary date of an employee shall be the date that the employee completes six months in a probationary status. In the case of a promotion or demotion that changes the classification of an employee, the promotion or demotion will constitute a new anniversary date for review purposes.~~
- ~~(h) The progression of each member is based upon satisfactorily completing the probationary period which is six months for all employees. Employees will be reviewed at the end of the probation period to determine whether they shall be retained in employment or the probation period extended. A probationary employee may be terminated at any time during the probation period.~~
- ~~(i) A merit increase may be given prior to the anniversary date of an employee but should be restricted to outstanding service, justified, and must be approved by the city administrator. Attendance, job knowledge, and additional education should be considered in making recommendations for a merit increase with emphasis placed on evaluation of services rendered.~~

~~Sec. 4-207. Appointments, promotions and veterans preference.~~

- ~~(a) Original appointments to vacancies occurring after this chapter becomes effective shall be based only on merit.~~
- ~~(b) Any examinations shall be in such form as will fairly test the abilities and aptitudes of candidates for the duties to be performed, and shall not include any inquiry into the political or religious affiliations or race of any candidate.~~
- ~~(c) Candidates who qualify for employment shall be placed on an eligible list for the appropriate job class in rank order.~~
- ~~(d) Preference in entrance examinations, but not in promotion, shall be granted to qualified persons who have been members of the armed forces of the United States, honorably discharged from military service. Such preference shall be in the form of points added to the final grades of such persons, provided that they first achieve a passing grade. The preference shall be five points for non-disabled veterans, and ten points for persons currently receiving compensation from the U.S. Veterans'~~

~~Administration for service-incurred disabilities. The rank order of such persons among other eligibles shall be determined on the basis of their augmented rating.~~

- ~~(e) Vacancies in positions above the entrance level shall be filled by promotion whenever in the judgment of the city administrator it is in the best interest of the city to do so.~~
- ~~(f) Pending the availability of an eligible list determined by the personnel director to be appropriate for a class, vacancies may be filled by temporary appointment. Such appointments shall have a maximum duration of six months and may not continue beyond one pay period after the establishment of an appropriate eligible list.~~
- ~~(g) It shall be a violation of this chapter for any elected official to use employment with the city as a means of reward for political patronage. All employment shall be based on the general provisions set forth in section 4-201(a)(1) of this chapter and all applicable federal and State of Tennessee law.~~

~~Sec. 4-208. Municipal holidays.~~

- ~~(a) A list holidays and regulations pertaining thereto is included in the employee handbook.~~
- ~~(b) In order to be eligible for holiday pay, employees should be present on the last assigned day of work before the holiday and the first assigned day after the holiday. The city may require written proof of sickness or excuse from work to the department head.~~

~~Sec. 4-209. Probation.~~

- ~~(a) Employees appointed from original appointment eligible lists or from promotional eligible lists shall be subject to a period of probation. The regular period of probation shall be six months for all.~~
- ~~(b) The work and conduct of probationary employees shall be subject to close scrutiny and evaluation, and if found to be below standards satisfactory to the department head, may be removed or demoted at any time during the probationary period. Such removals or demotion shall not be subject to review or appeal and shall not reflect in the reference checks or eligible lists. Employees terminated during probation shall have no recourse.~~
- ~~(c) An employee shall be retained beyond the end of the probationary period and granted permanent status only if the department head affirms that the services of the employee have been found to be satisfactory and recommends that the employee be given permanent status.~~

~~Sec. 4-210. Absences, hours and work.~~

- ~~(a) Vacation or annual leave is earned in accordance with provisions established in the employee handbook. No annual leave is considered earned until at least six months of service is completed.~~
- ~~(b) Sick leave is earned in accordance with provisions established in the employee handbook.~~
- ~~(c) Leaves for military service shall be granted in accordance with all applicable state and federal laws.~~
- ~~(d) Leave for absence without pay may be granted by the city council upon recommendation of the department head and city administrator. A leave of absence may not exceed one year. An employee shall retain all seniority rights and privileges earned prior to a leave of absence, but shall not receive credit for service during the period of absence.~~
- ~~(e) Overtime pay/compensatory time. The city shall pay one and one-half times the normal hourly wage rate of an employee who works beyond his normal work week as required by the United States Department of Labor, Fair Labor Standards Act (FLSA). The city obligates itself to follow all rules and regulations of the FLSA as it pertains to non-exempt personnel. Monetary compensation for exempt personnel will not be granted, but exempt personnel shall be allowed to accrue compensatory time in a one-for-one basis, provided all compensatory time is used within one year from its date of accrual. Compensatory time may be used as terminal leave for all personnel.~~

- ~~(f) Standby pay. Compensation for standby, as defined and administered by the city administrator, will be on the rate of two hours time for each day of standby. It shall be paid exclusively of any other premium pay.~~
- ~~(g) Call-out pay. An employee called out as defined and administered by the city administrator shall be guaranteed at least two hours of work.~~
- ~~(h) Jury pay. An employee required to serve on a jury shall be paid the difference between jury pay and his regular wages.~~
- ~~(i) Bereavement pay. The city administrator may pay up to three days for lost time due to a death in the immediate family. This use of sick leave shall not affect credit towards perfect attendance pay.~~

~~Sec. 4-211. Separations and discipline.~~

- ~~(a) The tenure of every employee shall be conditioned on the satisfactory performance of duties. Any employee may be temporarily separated by layoff or suspended; or permanently separated by resignation or dismissal.~~
- ~~(b) Whenever there is a lack of work or lack of funds requiring reductions in the number of employees in a department or division of the city government, the required reduction shall be made in such job class or classes as the department head may designate with the approval of the city administrator provided that employees shall be laid off in the inverse order of their relative length and quality of service, as determined by rules governing the evaluation of service. Within each affected job class, all temporary employees shall be laid off before probationary employees, and all probationary employees shall be laid off before any permanent employees. Lay-offs may transcend departmental organizations.~~
- ~~(c) When in the judgment of a department head an employee's work performance or conduct justifies disciplinary action short of dismissal, the employee may be suspended without pay for a period to be determined by the department head in consultation with the city administrator.~~
- ~~(d) A permanent employee may be dismissed or demoted whenever in the judgment of a department head the employee's work or misconduct so warrants. Upon the decision of the department head to take such action, he shall present to the employee a written notification containing the reasons for such action. The employee shall be notified not later than three days of the date of the infraction(s). The notice shall inform the employee that he shall be allowed the opportunity to contest the action via the grievance procedures outlined in the employee handbook.~~
- ~~(e) An employee may resign by filing his reasons with the department head either written or verbally.~~

~~An employee resigning in good standing may be reinstated within one year to any position in the same class if there is need for his services.~~

~~Sec. 4-212. Outside employment.~~

~~Employees of the municipality may accept outside part time employment with written authorization from the city administrator or his representative. Authorization shall be granted if the work does not interfere with the satisfactory performance of the employee's duties. In some cases, it may be necessary for the city administrator to withhold authorization for outside employment where the performance of said duties is likely to cast discredit upon or create embarrassment for the city.~~

~~Sec. 4-213. Investigations and hearings.~~

~~During the course of any investigation or hearing the personnel director may subpoena any employee of the city to attend and give witness. Any employee refusing to do so may be subject to disciplinary action as provided in section 4-211.~~

~~Sec. 4-214. General prohibitions.~~

- ~~(a) Employees in the city service shall be selected without regard to political considerations and shall not be required to contribute to any political purpose.~~
- ~~(b) There shall be no discrimination against any person seeking employment or employed in the city service because of any considerations of political activity.~~
- ~~(c) Nepotism—Favoritism shown to relatives in the form of patronage and based upon family relationships rather than merit, is strictly prohibited. After the effective date hereof, the city shall not hire persons from the same family. Same family shall mean spouses, children, parents, brothers and sisters.~~

~~Sec. 4-215.—Employee handbook.~~

~~The employee handbook shall be developed by the personnel director in consultation with the city administrator. It may be changed by the city administrator from time to time as conditions warrant with the advice and consent of the city council as a body.~~

~~CHAPTER 3—PERSONNEL REGULATIONS~~

~~Sec. 4-301.—Parking spaces at municipal building reserved for use of city officials and employees; exceptions.~~

~~The spaces for the parking of vehicles upon the property of the city upon which the municipal building is located is hereby declared to be for the exclusive use of the officials and employees of the city. No person shall park any vehicle in or upon any of such parking spaces unless such person is an official or an employee of the city; provided, however, that the city administrator may designate certain spaces as parking spaces for visitors and citizens with business at the municipal building.~~

~~Sec. 4-302.—Term of office of appointive officers and employees.~~

~~All persons appointed to office by the city council or who are employed by the city in any position, other than in the public schools, shall hold office or hold such position of employment at the will and pleasure of the city council and shall have no fixed term of office or employment, regardless of the fact that the salary attached to such office or employment may be fixed by the year, month, or week.~~

~~Sec. 4-303.—Business dealings with city.~~

~~Except for the receipt of such compensation as may be lawfully provided for the performance of his municipal duties, it shall be unlawful for any officer or employee of the city to be privately interested in or to profit, directly or indirectly, from business dealings with the city.~~

~~Sec. 4-304.—Acceptance of gratuities.~~

~~No officer or employee of the city shall accept any money or other consideration or favor from anyone other than the city for the performance of an act which he would be required or expected to perform in the regular course of his duties; nor shall any such officer or employee accept, directly or indirectly, any gift, gratuity, or favor of any kind which might reasonably be interpreted as an attempt to influence his actions with respect to city business.~~

~~Sec. 4-305.—Outside employment.~~

~~No full-time officer or employee of the city shall accept any outside employment without authorization from the city administrator. The city administrator shall not grant such authorization if the work is likely to interfere with the satisfactory performance of the officer's or employee's duties, or is incompatible with his employment by the city, or is likely to cast discredit upon or create embarrassment for the city.~~

~~Sec. 4-306.—Political activity.~~

~~Officers and employees of the city may individually exercise their right to vote and privately express their political views as citizens. No officer or employee of the city shall solicit political campaign contributions or engage in or actively participate in any political campaign. The restrictions of this section shall not apply to elective officials.~~

~~Sec. 4-307.—Use of city time, facilities, etc.~~

~~No officer or employee of the city shall use or authorize the use of city time, facilities, equipment, or supplies for private gain or advantage to himself or any other private person or group; provided, that this prohibition shall not apply where the city council has authorized the use of such time, facilities, equipment, or supplies and the city is paid at such rates as are normally charged by private sources for comparable services.~~

~~Sec. 4-308.—Use of position.~~

~~No officer or employee of the city shall make or attempt to make private purchases, for cash or otherwise, in the name of the city, nor shall he otherwise use or attempt to use his position to secure unwarranted privileges or exemptions for himself or others.~~

~~Sec. 4-309.—Strikes and unions.~~

~~No officer or employee of the city shall participate in any strike against the city, nor shall he join, be a member of, or solicit any other city officer or employee to join any labor union which authorizes the use of strikes by government employees.~~

~~CHAPTER 4—INFECTIOUS DISEASE CONTROL POLICY~~

~~Sec. 4-401.—Purpose.~~

~~It is the responsibility of the city to provide employees a place of employment which is free from recognized hazards that may cause death or serious physical harm. In providing services to the citizens of the city, employees may come in contact with life-threatening infectious diseases which can be transmitted through job-related activities. It is important that both citizens and employees are protected from the transmission of diseases just as it is equally important that neither is discriminated against because of basic misconceptions about various diseases and illnesses.~~

~~The purpose of this policy is to establish a comprehensive set of rules and regulations governing the prevention of discrimination and potential occupational exposure to Hepatitis B virus (HBV), the Human Immunodeficiency virus (HIV), and Tuberculosis (TB).~~

~~Sec. 4-402.—Coverage.~~

~~Occupational exposures may occur in many ways, including needle sticks, cut injuries or blood spills. Several classes of employees are assumed to be at high risk for blood-borne infections due to their routinely increased exposure to body fluids from potentially infected individuals. Those high-risk occupations include but are not limited to:~~

- ~~(1) Paramedics and emergency medical technicians;~~
- ~~(2) Occupational nurses;~~
- ~~(3) Housekeeping and laundry workers;~~
- ~~(4) Police and security personnel;~~
- ~~(5) Firefighters;~~
- ~~(6) Sanitation and landfill workers; and~~
- ~~(7) Any other employee deemed to be at high risk per this policy and an exposure determination.~~

~~Sec. 4-403.—Administration.~~

~~This infection control policy shall be administered by the city administrator or a designated representative who shall have the following duties and responsibilities:~~

- ~~(1) Exercise leadership in implementation and maintenance of an effective infection control policy subject to the provisions of this chapter, other ordinances, the city charter, and federal and state law relating to OSHA regulations;~~
- ~~(2) Make an exposure determination for all employee positions to determine a possible exposure to blood or body fluids;~~
- ~~(3) Maintain records of all employees and incidents subject to the provisions of the chapter;~~
- ~~(4) Conduct periodic inspections to determine compliance with the infection control policy by municipal employees;~~
- ~~(5) Coordinate and document all relevant training activities in support of the infection control policy;~~
- ~~(6) Prepare and recommend to the mayor and city council any amendments or changes to the infection control policy;~~
- ~~(7) Identify any and all housekeeping operations involving substantial risk of direct exposure to body fluids and shall address the proper precautions to be taken while cleaning rooms and blood spills; and~~
- ~~(8) Perform such other duties and exercise such other authority as may be prescribed by the city administrator.~~

~~Sec. 4-404.—Definitions.~~

~~[The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]~~

~~Body fluids means fluids that have been recognized by the center for disease control as directly linked to the transmission of HIV and/or HBV and/or to which universal precautions apply: blood, semen, blood products, vaginal secretions, cerebrospinal fluid, synovial fluid, pericardial fluid, amniotic fluid, and concentrated HIV or HBV viruses.~~

~~Exposure means the contact with blood or other body fluids to which universal precautions apply through contact with open wounds, non-intact skin, or mucous membranes during the performance of an individual's normal job duties.~~

~~Hepatitis B virus (HBV) means a serious blood-borne virus with potential for life-threatening complications. Possible complications include: massive hepatic necrosis, cirrhosis of the liver, chronic active hepatitis, and hepatocellular carcinoma.~~

~~Human Immunodeficiency virus (HIV) means the virus that causes acquired immunodeficiency syndrome (AIDS). HIV is transmitted through sexual contact and exposure to infected blood or blood components and perinatally from mother to neonate.~~

~~Tuberculosis (TB) means an acute or chronic communicable disease that usually affects the respiratory system, but may involve any system in the body.~~

~~Universal precautions refers to a system of infectious disease control which assumes that every direct contact with body fluid is infectious and requires every employee exposed to direct contact with body fluids to be protected as though such body fluid were HBV or HIV infected.~~

~~Sec. 4-405.—Policy statement.~~

~~All blood and body fluids are potentially infectious for several blood-borne pathogens and some body fluids can also transmit infections. For this reason, the center for disease control developed the strategy~~

~~that everyone should always take particular care when there is a potential exposure. These precautions have been termed "universal precautions."~~

~~Universal precautions stress that all persons should be assumed to be infectious for HIV and/or other blood-borne pathogens. Universal precautions apply to blood, tissues, and other body fluids which contain visible blood. Universal precautions also apply to semen, (although occupational risk or exposure is quite limited), vaginal secretions, and to cerebrospinal, synovial, pleural, peritoneal, pericardial and amniotic fluids. Universal precautions do not apply to feces, nasal secretions, human breast milk, sputum, saliva, sweat, tears, urine, and vomitus unless these substances contain visible blood.~~

~~Sec. 4-406. General guidelines.~~

~~General guidelines which shall be used by everyone include:~~

- ~~(1) Think when responding to emergency calls and exercise common sense when there is potential exposure to blood or body fluids which require universal precautions.~~
- ~~(2) Keep all open cuts and abrasions covered with adhesive bandages which repel liquids.~~
- ~~(3) Soap and water kill many bacteria and viruses on contact. If hands are contaminated with blood or body fluids to which universal precautions apply, then wash immediately and thoroughly. Hands shall also be washed after gloves are removed even if the gloves appear to be intact. When soap and water or hand washing facilities are not available, then use a waterless antiseptic hand cleaner according to the manufacturer's recommendation for the product.~~
- ~~(4) All workers shall take precautions to prevent injuries caused by needles, scalpel blades, and other sharp instruments. To prevent needle stick injuries, needles shall not be recapped, purposely bent or broken by hand, removed from disposable syringes, or otherwise manipulated by hand. After they are used, disposable syringes and needles, scalpel blades and other sharp items shall be placed in puncture resistant containers for disposal. The puncture resistant container shall be located as close as practical to the use area.~~
- ~~(5) The city will provide gloves of appropriate material, quality and size for each affected employee. The gloves are to be worn when there is contact (or when there is a potential contact) with blood or body fluids to which universal precautions apply:
 - ~~a. While handling an individual where exposure is possible;~~
 - ~~b. While cleaning or handling contaminated items or equipment;~~
 - ~~c. While cleaning up an area that has been contaminated with one of the above;~~~~Gloves shall not be used if they are peeling, cracked, or discolored, or if they have punctures, tears, or other evidence of deterioration. Employee shall not wash or disinfect surgical or examination gloves for reuse.~~~~
- ~~(6) Resuscitation equipment shall be used when necessary. (No transmission of HBV or HIV infection during mouth-to-mouth resuscitation has been documented.) However, because of the risk of salivary transmission of other infectious diseases and the theoretical risk of HIV or HBV transmission during artificial resuscitation, bags shall be used. Pocket mouth-to-mouth resuscitation masks designed to isolate emergency response personnel from contact with a victims' blood and blood contaminated saliva, respiratory secretion, and vomitus, are available to all personnel who provide or potentially provide emergency treatment.~~
- ~~(7) Masks or protective eyewear or face shields shall be worn during procedures that are likely to generate droplets of blood or other body fluids to prevent exposure to mucous membranes of the mouth, nose, and eyes. They are not required for routine care.~~
- ~~(8) Gowns, aprons, or lab coats shall be worn during procedures that are likely to generate splashes of blood or other body fluids.~~

- ~~(9) Areas and equipment contaminated with blood shall be cleaned as soon as possible. A household (chlorine) bleach solution (one part chlorine to ten parts water) shall be applied to the contaminated surface as a disinfectant leaving it on for a least 30 seconds. A solution must be changed and remixed every 24 hours to be effective.~~
- ~~(10) Contaminated clothing (or other articles) shall be handled carefully and washed as soon as possible. Laundry and dish washing cycles at 120 degrees are adequate for decontamination.~~
- ~~(11) Place all disposable equipment (gloves, masks, gowns, etc.) in a clearly marked plastic bag. Place the bag in a second clearly marked bag (double bag). Seal and dispose of by placing in a designated "hazardous" dumpster. Note: Sharp object must be placed in an impervious container and then taken to a hospital for disposal.~~
- ~~(12) Tags shall be used as a means of preventing accidental injury or illness to employees who are exposed to hazardous or potentially hazardous conditions, equipment or operations which are out of the ordinary, unexpected or not readily apparent. Tags shall be used until such time as the identified hazard is eliminated or the hazardous operation is completed.~~

~~All required tags shall meet the following criteria:~~

- ~~a. Tags shall contain a signal word and a major message. The signal word shall be "BIOHAZARD," or the biological hazard symbol. The major message shall indicate the specific hazardous condition or the instruction to be communicated to employees.~~
- ~~b. The signal word shall be readable at a minimum distance of five feet or such greater distance as warranted by the hazard.~~
- ~~c. All employees shall be informed of the meaning of the various tags used throughout the workplace and what special precautions are necessary.~~
- ~~(13) Linen soiled with body fluids shall be handled as little as possible and with minimum agitation to prevent contamination of the person handling the linen. All soiled linen shall be bagged at the location where it was used. It shall not be sorted or rinsed in the area. Soiled linen shall be placed and transported in bags that prevent leakage.~~

~~The employee responsible for transporting soiled linen should always wear protective gloves to prevent possible contamination. After removing the gloves, hands or other skin surfaces shall be washed thoroughly and immediately after contact with body fluids.~~

- ~~(14) Whenever possible, disposable equipment shall be used to minimize and contain clean up.~~

~~Sec. 4-407. Hepatitis B vaccinations.~~

~~The city shall offer the appropriate Hepatitis B vaccination to employees at risk of exposure free of charge and in amounts at times prescribed by standard medical practices. The vaccinations shall be voluntarily administered. High risk employees who wish to take the HBV vaccination should notify their department head who shall make the appropriate arrangements through the infectious disease control coordinator.~~

~~Sec. 4-408. Reporting potential exposure.~~

~~City employees shall observe the following procedures for reporting a job exposure incident that may put them at risk for HIV or HBV infections (i.e., needle sticks, blood contact on broken skin, body fluid contact with eyes or mouth, etc.):~~

- ~~(1) Notify the infectious disease control coordinator of the contact incident and details thereof.~~
- ~~(2) Complete the appropriate accident reports and any other specific form required.~~
- ~~(3) Arrangements will be made for the person to be seen by a physician as with any job-related injury.~~

~~Once an exposure has occurred, a blood sample should be drawn after consent is obtained from the individual from whom exposure occurred and tested for Hepatitis B surface antigen (HBsAg) and/or antibody to Human Immunodeficiency virus (HIV antibody). Testing of the source individual should be done at a location where appropriate pretest counseling is available. Post test counseling and referral for treatment should also be provided.~~

~~Sec. 4-409. Hepatitis B virus post-exposure management.~~

~~For an exposure to a source individual found to be positive for HBsAg, the worker who has not previously been given the Hepatitis B vaccine should receive the vaccine series. A single dose of Hepatitis B Immune Globulin (HBIG) is also recommended, if it can be given within seven days of exposure.~~

~~For exposure from an HBsAg-positive source to workers who have previously received the vaccine, the exposed worker should be tested for antibodies to Hepatitis B Surface Antigen (anti-HBs), and given one dose of vaccine and one dose of HBIG if the antibody level in the worker's blood sample is inadequate (i.e., 10 SRU by RIA, negative by EIA).~~

~~If the source individual is negative for HBsAg and the worker has not been vaccinated, this opportunity should be taken to provide the Hepatitis B vaccine series. HBIG administration should be considered on an individual basis when the source individual is known or suspected to be at high risk of HBV infection. Management and treatment, if any, of previously vaccinated workers who receive an exposure from a source who refuses testing or is not identifiable should be individualized.~~

~~Sec. 4-410. Human immunodeficiency virus post-exposure management.~~

~~For any exposure to a source individual who has AIDS, who is found to be positive for HIV infection, or who refuses testing, the worker should be counseled regarding the risk of infection and evaluated clinically and serologically for evidence of HIV infection as soon as possible after the exposure. The worker should be advised to report and seek medical evaluation for any acute febrile illness that occurs within 12 weeks after the exposure. Such an illness, particularly one characterized by fever, rash, or lymphadenopathy, may be indicative of recent HIV infection.~~

~~Following the initial test at the time of exposure, seronegative workers should be retested six weeks, 12 weeks, and six months after exposure to determine whether transmission has occurred. During this follow-up period (especially the first six to 12 weeks after exposure) exposed workers should follow the U.S. Public Health service recommendation for preventing transmission of HIV. These include refraining from blood donations and using appropriate protection during sexual intercourse. During all phases of follow-up, it is vital that worker confidentiality be protected.~~

~~If the source individual was tested and found to be seronegative, baseline testing of the exposed worker with follow-up testing 12 weeks later may be performed if desired by the worker or recommended by the health care provider. If the source individual cannot be identified, decisions regarding appropriate follow-up should be individualized. Serologic testing should be made available by the city to all workers who may be concerned they have been infected with HIV through an occupational exposure.~~

~~Sec. 4-411. Disability benefits.~~

~~Entitlement to disability benefits and any other benefits available for employees who suffer from on-the-job injuries will be determined by the Tennessee Worker's Compensations Bureau in accordance with the provisions of T.C.A. § 50-6-303.~~

~~Sec. 4-412. Training regular employees.~~

~~On an annual basis all employees shall receive training and education on precautionary measures, epidemiology, modes of transmission and prevention of HIV/HBV infection and procedures to be used if they are exposed to needle sticks or body fluids. They shall also be counseled regarding possible risks to the fetus from HIV/HBV and other associated infectious agents.~~

~~Sec. 4-413. Training high risk employees.~~

~~In addition to the above, high risk employees shall also receive training regarding the location and proper use of personal protective equipment. They shall be trained concerning proper work practices and understand the concept of "universal precautions" as it applies to their work situation. They shall also be trained about the meaning of color coding and other methods used to designate contaminated material. Where tags are used, training shall cover precautions to be used in handling contaminated as per this policy.~~

~~Sec. 4-414. Training new employees.~~

~~During the new employee's orientation to his/her job, all new employees will be trained on the effects of infectious disease prior to putting them to work.~~

~~Sec. 4-415. Records and reports.~~

- ~~(a) Reports. Occupational injury and illness records shall be maintained by the city. Statistics shall be maintained on the OSHA-200 report. Only those work-related injuries that involve loss of consciousness, transfer to another job, restriction of work or motion, or medical treatment are required to be put on the OSHA-200 report.~~
- ~~(b) Needle sticks. Needle sticks, like any other puncture wound, are considered injuries for recordkeeping purposes due to the instantaneous nature of the event. Therefore, any needle stick requiring medical treatment (i.e. Gamma Globulin, Hepatitis B Immune Globulin, Hepatitis B vaccine, etc.) shall be recorded.~~
- ~~(c) Prescription medication. Likewise, the use of prescription medication (beyond a single dose for minor injury or discomfort) is considered medical treatment. Since these types of treatment are considered necessary, and must be administered by physician or licensed medical personnel, such injuries cannot be considered minor and must be reported.~~
- ~~(d) Employee interviews. Should the city be inspected by the U.S. Department of Labor Office of Health Compliance, the compliance safety and health officer may wish to interview employees. Employees are expected to cooperate fully with the compliance officers.~~

~~Sec. 4-416. Legal rights of victims of communicable diseases.~~

~~Victims of communicable diseases have the legal right to expect, and municipal employees, including police and emergency service officers are duty bound to provide, the same level of service and enforcement as any other individual would receive.~~

- ~~(1) Officers assume that a certain degree of risk exists in law enforcement and emergency service work and accept those risks with their individual appointments. This holds true with any potential risks of contacting a communicable disease as surely as it does with the risks of confronting an armed criminal.~~
- ~~(2) Any officer who refuses to take proper action in regard to victims of a communicable disease, when appropriate protective equipment is available, shall be subject to disciplinary measures along with civil and/or criminal prosecution.~~
- ~~(3) Whenever an officer mentions in a report that an individual has or may have a communicable disease, he shall write "contains confidential medical information" across the top margin of the first page of the report.~~
- ~~(4) The officer's supervisor shall ensure that the above statement is on all reports requiring that statement.~~
- ~~(5) The supervisor disseminating newspaper releases shall make certain the confidential information is not given out to the news media.~~

- ~~(6) All requests (including subpoenas) for copies of reports marked "contains confidential medical information" shall be referred to the city attorney when the incident involves an indictable or juvenile offense.~~
- ~~(7) Prior approval shall be obtained from the city attorney before advising a victim of sexual assault that the suspect has, or is suspected of having a communicable disease.~~
- ~~(8) All circumstance, not covered in this policy, that may arise concerning releasing confidential information regarding a victim, or suspected victim, of a communicable disease shall be referred directly to the appropriate department head or city attorney.~~
- ~~(9) Victims of a communicable disease and their families have a right to conduct their lives without fear of discrimination. An employee shall not make public, directly or indirectly, the identity of a victim or suspected victim of a communicable disease.~~
- ~~(10) Whenever an employee finds it necessary to notify another employee, police officer, firefighter, emergency service officer, or health care provider that a victim has or is suspected of having a communicable disease, that information shall be conveyed in a dignified, discrete and confidential manner. The person to whom the information is being conveyed should be reminded that the information is confidential and that it should not be treated as public information.~~
- ~~(11) Any employee who disseminates confidential information in regard to a victim, or suspected victim of a communicable disease in violation of this policy shall be subject to serious disciplinary action and/or civil and/or criminal prosecution.~~

~~CHAPTER 5 – OCCUPATIONAL SAFETY AND HEALTH PROGRAM~~

~~Sec. 4-501. Title.~~

~~This chapter shall be known as "The Occupational Safety and Health Program Plan" for the employees of the city.~~

~~Sec. 4-502. Purpose.~~

~~The city in electing to update the established program plan will maintain an effective and comprehensive occupational safety and health program plan for its employees and shall:~~

- ~~(1) Provide a safe and healthful place and condition of employment that includes:
 - ~~a. Top management commitment and employee involvement;~~
 - ~~b. Continually analyze the worksite to identify all hazards and potential hazards;~~
 - ~~c. Develop and maintain methods for preventing or controlling the existing or potential hazards; and~~
 - ~~d. Train managers, supervisors, and employees to understand and deal with worksite hazards.~~~~
- ~~(2) Acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.~~
- ~~(3) Record, keep, preserve, and make available to the commissioner of labor and workforce development, or persons within the department of labor and workforce development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.~~
- ~~(4) Consult with the commissioner of labor and workforce development with regard to the adequacy of the form and content of records.~~

- ~~(5) Consult with the commissioner of labor and workforce development, as appropriate, regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be achieved under a standard promulgated by the state.~~
- ~~(6) Provide reasonable opportunity for the participation of employees in the effectuation of the objectives of this program plan, including the opportunity to make anonymous complaints concerning conditions or practices injurious to employee safety and health.~~
- ~~(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program plan.~~

~~Sec. 4-503.—Coverage.~~

~~The provisions of the occupational safety and health program plan for the employees of the city shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent.~~

~~Sec. 4-504.—Standards authorized.~~

~~The occupational safety and health standards adopted by the city are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972.~~

~~Sec. 4-505.—Variances from standards authorized.~~

~~Upon written application to the commissioner of labor and workforce development of the State of Tennessee, we may request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Variances from Occupational Safety and Health Standards, chapter 0800-01-02, as authorized by T.C.A. title 50. Prior to requesting such temporary variance, we will notify or serve notice to our employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board shall be deemed sufficient notice on the main bulletin board shall be deemed sufficient notice to employees.~~

~~Sec. 4-506.—Administration.~~

~~For the purposes of this chapter, administrative services director is designated as the safety director of occupational safety and health to perform duties and to exercise powers assigned to plan, develop, and administer this program plan. The safety director shall develop a plan of operation for the program plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Safety and Health Provisions for the Public Sector, chapter 0800-01-05, as authorized by T.C.A. title 50.~~

~~Sec. 4-507.—Funding the program plan.~~

~~Sufficient funds for administering and staffing the program plan pursuant to this chapter shall be made available as authorized by the city.~~

~~CHAPTER 6—TRAVEL REIMBURSEMENT REGULATIONS~~

~~Sec. 4-601.—Purpose.~~

- ~~(a) The purpose of this chapter and referenced regulations is to bring the city into compliance with T.C.A. § 6-54-901-907. This law requires Tennessee municipalities to adopt travel and expense regulations covering expenses incurred by "any mayor and any member of the local governing body~~

and any board or committee member elected or appointed by the mayor or local governing body, and any official or employee of the municipality whose salary is set by Charter or general law."

- ~~(b) To provide consistent travel regulations and reimbursement, this chapter is expanded to cover regular city employees. It is the intent of this policy to assure fair and equitable treatment to all individuals traveling on city business at city expense.~~

~~Sec. 4-602.—Enforcement.~~

~~The chief administrative officer (CAO) of the city or his or her designee shall be responsible for the enforcement of these travel regulations.~~

~~Sec. 4-603.—Travel policy.~~

- ~~(a) In the interpretation and application of this chapter, the term "traveler" or "authorized traveler" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on city business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.~~
- ~~(b) Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling on official business for the city. Reimbursable expenses shall include expenses for transportation; lodging; meals; registration fees for conferences, conventions and seminars; and other actual and necessary expenses related to official business as determined by the CAO. Under certain conditions, entertainment expenses may be eligible for reimbursement.~~
- ~~(c) (1) Authorized travelers can request either a travel advance for the projected cost of authorized travel, or advance billing directly to the city for registration fees, air fares, meals, lodging, conferences and similar expenses.~~
- ~~(2) Travel advance requests are not considered documentation of travel expenses. If travel advances exceed documented expenses, the traveler must immediately reimburse the city. It will be the responsibility of the CAO to initiate action to recover any undocumented travel advances.~~
- ~~(d) Travel advances are available only for special travel and only after completion and approval of the travel authorization form.~~
- ~~(e) The travel expense reimbursement form will be used to document all expense claims.~~
- ~~(f) To qualify for reimbursement, travel expenses must be:~~
- ~~(1) Directly related to the conduct of the city business for which travel was authorized; and~~
- ~~(2) Actual, reasonable and necessary under the circumstances. The CAO may make exceptions for unusual circumstances.~~
- ~~Expenses considered excessive will not be allowed.~~
- ~~(g) Claims of \$5.00 or more for travel expense reimbursement must be supported by the original paid receipt for lodging, vehicle rental, phone call, public carrier travel, conference fee and other reimbursable costs.~~
- ~~(h) Any person attempting to defraud the city or misuse city travel funds is subject to legal action for recovery of fraudulent travel claims and/or advances.~~
- ~~(i) Mileage and motel expenses incurred within the city are not ordinarily considered eligible expenses for reimbursement.~~

~~Sec. 4-604.—Travel reimbursement rate schedules.~~

- ~~(a) Authorized travelers shall be reimbursed according to the federal travel regulation rates. The city's travel reimbursement rates will automatically change when the federal rates are adjusted.~~
- ~~(b) The municipality may pay directly to the provider for expenses such as meals, lodging and registration fees for conferences, conventions, seminars and other education programs.~~

~~Sec. 4-605.—Administrative procedures.~~

~~The city adopts and incorporates by reference, as if fully set out herein, the administrative procedures submitted by MTAS to, and approved by letter by, the Comptroller of the Treasury, State of Tennessee. A copy of the administrative procedures is on file in the office of the city recorder.~~

~~CHAPTER 7—CODE OF ETHICS~~

~~Sec. 4-701.—Applicability.~~

~~This chapter is the code of ethics for personnel of the city, hereinafter referred to as city or municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate division, board, commission, committee, authority, corporation, or other instrumentality appointed or created by the city. The words "city," "municipal" and "municipality" include these separate entities.~~

~~Sec. 4-702.—Definition of "personal interest."~~

~~(a) For purposes of sections 4-703 and 4-704, "personal interest" means:~~

- ~~(1) Any financial, ownership, or employment interest in the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interests; or~~
- ~~(2) Any financial, ownership, or employment interest in a matter to be regulated or supervised; or~~
- ~~(3) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), stepparent(s), grandparent(s), sibling(s), child(ren), or stepchild(ren).~~

~~(b) The words "employment interest" include a situation in which an official or employee or a designated family member is negotiating possible employment with a person or organization that is the subject of the vote or that is to be regulated or supervised.~~

~~(c) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter.~~

~~Sec. 4-703.—Disclosure of personal interest by official with vote.~~

~~An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself from voting on the measure.~~

~~Sec. 4-704.—Disclosure of personal interest in nonvoting matters.~~

~~An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the city administrator. In addition, the official or employee may, to the extent allowed by law, Charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter.~~

~~Sec. 4-705.—Acceptance of gratuities, etc.~~

~~An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:~~

- ~~(1) For the performance of an act, or refraining from performance of an act, that he would be expected to perform, or refrain from performing, in the regular course of his duties; or~~
- ~~(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business.~~

~~Sec. 4-706. Use of information.~~

- ~~(a) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.~~
- ~~(b) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity.~~

~~Sec. 4-707. Use of municipal time, facilities, etc.~~

- ~~(a) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.~~
- ~~(b) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality.~~

~~Sec. 4-708. Use of position or authority.~~

- ~~(a) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the city or municipality.~~
- ~~(b) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the city or municipality.~~

~~Sec. 4-709. Outside employment.~~

~~An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the city's or municipality's charter or any ordinance or policy.~~

~~Sec. 4-710. Ethics complaints.~~

- ~~(a) The city's attorney is designated as the ethics officer of the city. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this policy and other applicable law.~~
- ~~(b) (1) Except as otherwise provided in this subsection, the city attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this policy, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.~~
 - ~~(2) The city attorney may request that the city hire another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interests in a particular matter.~~
 - ~~(3) When a complaint of a violation of any provision of this chapter is lodged against a member of the city, the city shall either determine that the complaint has merit, determine that the complaint does not have merit, or determine that the complaint has sufficient merit to warrant further~~

~~investigation. If the city determines that a complaint warrants further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the city.~~

- ~~(c) The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this code of ethics.~~
- ~~(d) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel provisions rather than as a violation of this code of ethics.~~

~~Sec. 4-711. Violations.~~

~~An appointed member of a separate division, board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law and in addition is subject to censure by the city. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action.~~

~~Secs. 4-712—4-714. Reserved.~~

**ORDINANCE NO. _____
BEING AN ORDINANCE OF THE CITY COUNCIL FOR THE
CITY OF MORRISTOWN, TENNESSEE, AMENDING TITLE 5,
CHAPTER 6 OF THE MORRISTOWN MUNICIPAL CODE.**

**BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF MORRISTOWN
TENNESSEE, THAT TITLE 5 OF THE MUNICIPAL CODE IS AMENDED AS
FOLLOWS:**

**TITLE 5
MUNICIPAL FINANCE & TAXATION**

**Chapter 6
Sales and Use Tax**

SECTION

**Sec. 5-601. Sales and use tax levied, section (a) is deleted in its entirety and
substituted therefore is the following:**

Sec. 5-601. Sales and use tax levied.

**(a) There is levied a local sales and use tax within the corporate limits of the
municipality at a rate of 2.75%, not to exceed the maximum percentage as stated in
the Local Option Revenue Act, T.C.A. §67-6-702.**

PASSED ON FIRST READING THIS THE _____ DAY OF _____, 2016.

MAYOR

ATTEST:

CITY ADMINISTRATOR

**PASSED ON SECOND AND FINAL READING THIS THE _____ DAY OF _____,
2016.**

MAYOR

ATTEST:

CITY ADMINISTRATOR

TITLE 5 - MUNICIPAL FINANCE AND TAXATION^[1]

CHAPTER 6 - SALES AND USE TAX

Sec. 5-601. - Sales and use tax levied.

Sec. 5-601. Sales and use tax levied, section (a) is deleted in its entirety and substituted therefore is the following:

Sec. 5-601. Sales and use tax levied.

(a) There is levied a local sales and use tax within the corporate limits of the municipality at a rate of 2.75%, not to exceed the maximum percentage as stated in the Local Option Revenue Act, T.C.A. §67-6-702.

~~(a) There is levied a local sales and use tax within the corporate limits of the municipality at a rate of 9.75%, not to exceed the maximum percentage as stated in the Local Option Revenue Act, T.C.A. §§ 67-6-701—67-6-714, as amended, except as limited or modified by statute.~~

ORDINANCE NO. _____
BEING AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY
OF MORRISTOWN TENNESSEE, AMENDING TITLE 6 OF THE
MORRISTOWN MUNICIPAL CODE.

BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF MORRISTOWN
TENNESSEE, THAT TITLE 6 OF THE MUNICIPAL CODE IS AMENDED AS
FOLLOWS:

TITLE 6
LAW ENFORCEMENT

Chapter 1
Police Department

SECTION

Sec. 6-105. Resisting or obstructing police, is deleted in its entirety and substituted
therefore is the following:

Sec. 6-105. Resisting stop, frisk, halt, arrest or search.

It shall be unlawful for any person to resist, obstruct, or oppose any
policeman or any person duly empowered with police authority while in the
discharge or apparent discharge of his duty, or in any way interfere with or hinder
him in the discharge of his duty.

Sec. 6-106 Impersonating police officers, is deleted in its entirety and substituted
therefore is the following:

Sec. 6-106. Impersonating police officers.

It shall be unlawful for any person to hold himself out as a police officer of the
city; nor shall any person falsely assert that he has the authority or right to exercise
the powers of any police officer of the city.

Section 6-107. Policemen may require assistance in making arrests, is deleted in its
entirety.

Chapter 3
Sheriff

Chapter 3 Sheriff is deleted in its entirety.

PASSED ON FIRST READING THIS THE DAY OF , 2016.

ATTEST:

MAYOR

CITY ADMINISTRATOR

PASSED ON SECOND AND FINAL READING THIS THE _____ DAY OR
, 2016.

ATTEST:

MAYOR

CITY ADMINISTRATOR

TITLE 6 - LAW ENFORCEMENT^[1]

CHAPTER 1 - POLICE DEPARTMENT

~~Sec. 6-105. Resisting or obstructing police.~~

~~No person shall resist, obstruct, or oppose any policeman or any person duly empowered with police authority while in the discharge or apparent discharge of his duty, or in any way interfere with or hinder him in the discharge of his duty.~~

Sec. 6-105. Resisting or obstructing police, is deleted in its entirety and substituted therefore is the following:

Sec. 6-105. Resisting or obstructing police.

It shall be unlawful for any person to resist, obstruct, or oppose any policeman or any person duly empowered with police authority while in the discharge or apparent discharge of his duty, or in any way interfere with or hinder him in the discharge of his duty.

~~Sec. 6-106. Impersonating police officers.~~

~~No person shall hold himself out as or falsely impersonate a police officer of the city; nor shall any person falsely assert that he has the authority or right to exercise the powers of any police officer of the city.~~

Sec. 6-106 Impersonating police officers, is deleted in its entirety and substituted therefore is the following:

Sec. 6-106. Impersonating police officers.

It shall be unlawful for any person to hold himself out as a police officer of the city; nor shall any person falsely assert that he has the authority or right to exercise the powers of any police officer of the city.

~~Sec. 6-107. Policemen may require assistance in making arrests.~~

~~It shall be unlawful for any person willfully to refuse to aid a policeman in making a lawful arrest when such person's assistance is requested by the policeman and such assistance is reasonably necessary to affect the arrest.~~

~~CHAPTER 3 - SHERIFF~~

~~Sec. 6-301. Duty to enforce ordinances.~~

~~The city council of the City of Morristown, Tennessee, ordains that the sheriff of Hamblen County be, and is hereby authorized and empowered to enforce the ordinances of the municipality pursuant to an agreement by and among the Hamblen County General Sessions Court, City of Morristown, Hamblen County and Charles Long, Sheriff of Hamblen County, Tennessee, dated the _____ day of _____, 1987.~~

~~Sec. 6-302. Termination of agreement.~~

~~This chapter shall terminate and be of no effect upon the effective date of termination of the agreement among the parties described in section 6-301 hereof.~~

ORDINANCE NO. _____
BEING AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY
OF MORRISTOWN TENNESSEE, AMENDING TITLE 7 OF THE
MORRISTOWN MUNICIPAL CODE.

BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF MORRISTOWN
TENNESSEE, THAT TITLE 7 OF THE MUNICIPAL CODE IS AMENDED AS
FOLLOWS:

TITLE 7
FIRE PROTECTION & FIREWORKS

Chapter 1 Fire District, is deleted in its entirety and moved to Title 12.

Chapter 2 Fire Code, is deleted in its entirety and moved to Title 12.

Chapter 3
Fire Department

Sec. 7-302. Chief of fire department—police powers; enforcement of fire prevention regulations, is deleted in its entirety and substituted therefore is the following:

Sec. 7-302. Fire Chief or his designee is authorized to enforce fire prevention regulations.

Fire Chief or his designee is hereby authorized to enforce all provisions of this code relative to fire prevention.

Sec. 7-303. Authority to inspect buildings for fire hazards; report to city council, is deleted in its entirety and substituted therefore is the following:

Sec. 7-303. Authority to inspect buildings for fire hazards.

The Fire Chief or his designee is hereby vested with power and authority to inspect all buildings within the city. He shall have the right to inspect the condition of all buildings within the city with a view to determining whether or not they contain fire hazards, and shall have the right to give notice to the owner or occupant of any building containing such fire hazards to remove or remedy the same. He shall report the conditions of such buildings to the Fire Chief for such action as the Fire Chief may deem proper to take in the premises. It shall be unlawful for any owner or occupant of any building in the city to refuse to allow the Fire Chief or his Designee the right to inspect such building.

Sec. 7-304. Clothing and equipment to be furnished to firemen, is deleted in its entirety and substituted therefore is the following:

Sec. 7-304. Uniforms and protective equipment.

On duty uniforms for day to day use along with Personal Protective Equipment (PPE) will be furnished to fire personnel.

Chapter 4

Reserve Fire Force

Chapter 4. Reserve Fire Force, is deleted in its entirety.

PASSED ON FIRST READING THIS THE DAY OF 2016.

ATTEST: _____ MAYOR

CITY ADMINISTRATOR

PASSED ON SECOND AND FINAL READING THIS THE DAY OF
2016.

ATTEST: _____ MAYOR

CITY ADMINISTRATOR

TITLE 7 - FIRE PROTECTION AND FIREWORKS^[1]

~~Chapter 1—FIRE DISTRICT^[2]~~

~~Sec. 7-101.—Fire limits described.~~

~~The fire limits of the city are hereby described as follows:~~

~~That area bounded on the west by Jackson Street, on the east by Daisy Street, on the south by Second South Street and on the north by Third Street.~~

~~CHAPTER 2—FIRE CODE^[3]~~

~~Sec. 7-201.—Fire code adopted.~~

~~Pursuant to authority granted by T.C.A. §§ 6-54-501 through 6-54-506, and for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the fire prevention code, (NFPA No. 1-2000 edition), including each reference in NFPA 1, chapter 32, thereof, published by the National Fire Protection Association, Inc., Batterymarch Park, Quincy, MA 02269. Each reference in NFPA 1, chapter 32 to an NFPA code or standard shall be deemed to be the edition thereof printed in the National Fire Code, 2000 edition. Pursuant to the requirement of T.C.A. § 6-54-502, one copy of the fire prevention code has been filed with the city recorder and is available for public use and inspection. The fire prevention code, is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits.~~

~~Sec. 7-202.—Modifications.~~

~~The fire prevention code adopted in section 7-201 above is modified by deleting therefrom sections 1—5, titled "Board of Appeals," in its entirety; section 7-206 below shall control appeals.~~

~~Sec. 7-203.—Definition of "municipality."~~

~~Whenever the word "municipality" is used in the fire prevention code herein adopted, it shall be held to mean the City of Morristown, Tennessee.~~

~~Sec. 7-204.—Storage of explosives, flammable liquids, etc.~~

- ~~(a) The fire district referred to in NFPA 495 in annex A of the fire prevention code, in which storage of explosives and blasting agents is prohibited, is hereby declared to be the fire district as set out in section 7-101 of this Code.~~
- ~~(b) The fire district referred to in NFPA 30 in annex A of the fire prevention code, in which storage of flammable liquids in outside above ground tanks is prohibited, is hereby declared to be the fire district as set out in section 7-101 of this Code.~~
- ~~(c) The fire district referred to in NFPA 30 in annex A of the fire prevention code, in which new bulk plants for flammable or combustible liquids are prohibited, is hereby declared to be the fire district as set out in section 7-101 of this Code.~~
- ~~(d) The fire district referred to in NFPA 58 in annex A of the fire prevention code, in which bulk storage of liquefied petroleum gas is restricted, is hereby declared to be the fire district as set out in section 7-101 of this Code.~~

~~Sec. 7-205.—Gasoline trucks.~~

~~No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline.~~

~~Sec. 7-206. Variances.~~

~~The chief of the fire department may recommend to the board of mayor and aldermen variances from the provisions of the fire prevention code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the board of mayor and aldermen.~~

~~Sec. 7-207. Violations and penalties.~~

~~It shall be unlawful for any person to violate any of the provisions of this chapter or the fire prevention code hereby adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder, or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been modified by the board of mayor and aldermen or by a court of competent jurisdiction, within the time fixed herein. The application of a penalty under the general penalty clause for the municipal code shall not be held to prevent the enforced removal of prohibited conditions.~~

Chapter 3 - FIRE DEPARTMENT^[4]

~~Sec. 7-302. Chief of fire department—police powers; enforcement of fire prevention regulations.~~

~~The chief of the fire department is hereby authorized to exercise police powers at times of fire, and to summon to his assistance such additional help as he may deem necessary to control the fire. The fire chief is hereby authorized to enforce all provisions of this code relative to fire prevention.~~

Sec. 7-302. Chief of fire department—police powers; enforcement of fire prevention regulations, is deleted in its entirety and substituted therefore is the following:

Sec. 7-302. Fire Chief or his designee is authorized to enforce fire prevention regulations.

Fire Chief or his designee is hereby authorized to

~~Sec. 7-303. Authority to inspect buildings for fire hazards; report to city council.~~

~~The chief of the fire department is hereby vested with power and authority to inspect all buildings within the city. He shall have the right to inspect the condition of all buildings within the city with a view to determining whether or not they contain fire hazards, and shall have the right to give notice to the owner or occupant of any building containing such fire hazards to remove or remedy the same. He shall report the conditions of such buildings to the city council for such action as the city council may deem proper to take in the premises. It shall be unlawful for any owner or occupant of any building in the city to refuse to allow the fire chief the right to inspect such building.~~

Sec. 7-303. Authority to inspect buildings for fire hazards; report to city council, is deleted in its entirety and substituted therefore is the following:

Sec. 7-303. Authority to inspect buildings for fire hazards.

The Fire Chief or his designee is hereby vested with power and authority to inspect all buildings within the city. He shall have the right to inspect the condition of all buildings within the city with a view to determining whether or not they contain fire hazards, and shall have the right to give notice to the owner or occupant of any building containing such fire hazards to remove or remedy the same. He shall report the conditions of such buildings to the Fire Chief for such action as the Fire Chief may deem proper to take in the premises. It shall be unlawful for any owner or occupant of any building in the city to refuse to allow the Fire Chief or his Designee the right to inspect such building.

~~Sec. 7-304. Clothing and equipment to be furnished to firemen.~~

~~The city council will furnish members of the fire department rubber coats or other suitable clothing and fire helmets to be worn at fires, drills, and on duty only. Such clothing shall remain the property of the city. All of such paraphernalia shall remain at the fire hall when not in use.~~

Sec. 7-304. Clothing and equipment to be furnished to firemen, is deleted in its entirety and substituted therefore is the following:

Sec. 7-304. Uniforms and protective equipment.

On duty uniforms for day to day use along with Personal Protective Equipment (PPE) will be furnished to fire personnel.

~~Chapter 4—RESERVE FIRE FORCE~~

~~Sec. 7-401. Created; membership.~~

~~There is created a reserve fire force to consist of not more than 35 members.~~

~~Sec. 7-402. Qualifications for members.~~

~~Members of the reserve fire force shall be residents of the city, more than 18 years of age, and of good moral character. No person shall be a member who has been convicted of a crime.~~

~~Sec. 7-403. Appointment; identification card; authority when on duty; compensation; reports of city administrator concerning roster.~~

~~Members shall be appointed by, and shall serve at the will of the city council. The city administrator shall make periodic reports, at least each year, recommending to the city council any necessary additions or deletions to the roster of the reserve fire force. Each member shall be issued a card signed by the city administrator evidencing his appointment. When ordered to duty, and until relieved as herein provided, each reserve fireman shall have the same powers and authority as regular firemen, except as herein provided, and shall be paid \$10.00 for each day or fraction of a day he serves.~~

~~Sec. 7-404. Roster of members generally.~~

~~The recorder shall maintain in his office a current roster of the reserve fire force, and shall provide the fire chief and the city administrator copies.~~

~~Sec. 7-405. Orders to duty; relief from duty; record of duty.~~

~~The city administrator, or in his absence the fire chief, or in his absence such ranking officer in charge, is authorized to order all reserve firemen, or as many as deemed necessary, to duty whenever in his opinion the circumstances warrant. The city administrator, or in his absence the fire chief, or in his absence such ranking officer in charge, may issue orders relieving reserve firemen from duty. Orders to duty and orders relieving from duty issued by them shall be entered on the fire department record and signed by the city administrator or the fire chief. The city council may issue orders to duty and relief from duty which shall prevail over orders of the city administrator or fire chief.~~

~~Sec. 7-406.— Rules and regulations.~~

~~The fire chief shall prepare rules and regulations subject to approval of the city council for the governing of the reserve fire force, a copy of which shall be provided each reserve fireman. The rules and regulations shall contain at least the following:~~

- ~~(1) No member shall have the authority to act as a reserve fireman unless ordered to duty and only as long as the orders are effective.~~
- ~~(2) The reserve fire force shall be separate and distinct from the regular fire force, and no reserve fireman regardless of rank shall have authority over any regular fireman.~~
- ~~(3) Reserve firemen shall serve only for the special purpose for which ordered to duty, and shall not attempt to perform the general duties of the regular firemen, except as expressly ordered by the fire chief.~~
- ~~(4) The time within which members shall report for duty after receipt of orders and the circumstances under which they may be excused from duty.~~

~~Sec. 7-407.— Fire chief responsible for organization, supervision, etc.~~

~~The fire chief shall be responsible for the organization of the reserve fire force, which shall be under his supervision, direction, and control.~~

~~Chapter 5— FIREWORKS~~

~~Sec. 7-501.— Fireworks.~~

- ~~(a) It shall be unlawful for any person, firm or corporation to possess, store, sell or give away any pyrotechnics, commonly known as fireworks, within the corporate limits of the city, subject to the following exception:~~

~~This chapter shall not apply to the possession and use of fireworks for public displays by holders of a permit for public display to be conducted in accordance with the rules and regulations promulgated by the state fire marshal.~~

- ~~(b) Any person, firm or corporation found guilty of violating this chapter shall be fined not less than \$2.00 nor more than \$50.00 and the fireworks confiscated as contraband and destroyed.~~

ORDINANCE NO. _____
BEING AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY
OF MORRISTOWN TENNESSEE, AMENDING TITLE 12 OF THE
MORRISTOWN MUNICIPAL CODE.

BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF MORRISTOWN
TENNESSEE, THAT TITLE 12 OF THE MUNICIPAL CODE IS AMENDED AS
FOLLOWS:

TITLE 12
BUILDING, UTILITY, ETC., CODES

Add Chapter 1 Fire District

Sec. 12-101. Fire limits described.

The fire limits of the city are hereby described as follows:

That area bounded on the west by Jackson Street, on the east by Daisy
Street, on the south by Second South Street and on the north by Third Street.

Add Chapter 2 Fire Code

Sec. 12-201. Fire code adopted.

NFPA 1 Uniform Fire Code, 2006 edition including all standards listed in
chapter 2 except for NFPA 5000 and deleting section 24.3.5.1 from NFPA 101 Life
Safety Code, 2006 edition.

Note— Copies of the fire prevention code are available from the National Fire
Protection Association, Inc., 1 Batterymarch Park, Quincy, MA 02269-9101.

Sec. 12-202. Modifications

The Fire Code adopted in Sec. 12-201 is modified by deleting therefrom
Chapter 1.10 titled “Board of Appeals”, in its entirety; section 12-206 below shall
control appeals.

Sec. 12-203. Definition of “municipality”.

Whenever the word “municipality” is used in the NFPA 1 Uniform Fire Code
or referenced Codes herein adopted, it shall be held to mean the City of Morristown,
Tennessee.

Sec. 12-204. Gasoline trucks.

No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline.

Sec. 12-205. Variances.

The chief of the fire department may recommend to the board of mayor and aldermen variances from the provisions of the fire prevention code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the board of mayor and aldermen.

Sec. 12-206. Violations and penalties.

It shall be unlawful for any person to violate any of the provisions of this chapter or the fire prevention code hereby adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been modified by the board of mayor and aldermen or by a court of competent jurisdiction, within the time fixed herein. The application of a penalty under the general penalty clause for the municipal code shall not be held to prevent the enforced removal of prohibited conditions.

Chapter 7
Codes Adopted

Sec. 12-701. – Codes adopted is amended by deleting item (9) NFPA 1 Uniform Fire Code in its entirety.

PASSED ON FIRST READING THIS THE DAY OF 2016.

MAYOR

ATTEST:

CITY ADMINISTRATOR

PASSED ON SECOND AND FINAL READING THIS THE
2016.

DAY OF

MAYOR

ATTEST:

CITY ADMINISTRATOR

TITLE 12 - BUILDING, UTILITY, ETC., CODES

ADD CHAPTER 1 – FIRE DISTRICT

Sec. 12-101 Fire limits described.

The fire limits of the city are hereby described as follows:

That area bounded on the west by Jackson Street, on the east by Daisy Street, on the south by Second South Street and on the north by Third Street.

ADD CHAPTER 2 – FIRE CODE

Sec. 12-201. Fire code adopted.

NFPA 1 Uniform Fire Code, 2006 edition including all standards listed in chapter 2 except for NFPA 5000 and deleting section 24.3.5.1 from NFPA 101 Life Safety Code, 2006 edition.

Note— Copies of the fire prevention code are available from the National Fire Protection Association, Inc., 1 Batterymarch Park, Quincy, MA 02269-9101.

Sec. 12-202. Modifications.

The Uniform Fire Code adopted in 12-701(9) is modified by deleting therefrom Chapter 1.10 titled “Board of Appeals”, in its entirety; section 12-206 below shall control appeals.

Sec. 12-203. Definition of “municipality”.

Whenever the word “municipality” is used in the NFPA 1 Uniform Fire Code or referenced Codes herein adopted, it shall be held to mean the City of Morristown, Tennessee.

Sec. 12-204. Gasoline trucks.

No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline.

Sec. 12-205. - Variances.

The chief of the fire department may recommend to the board of mayor and aldermen variances from the provisions of the fire prevention code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the

strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the board of mayor and aldermen.

(1979 Code, § 7-206)

Sec. 12-206. - Violations and penalties.

It shall be unlawful for any person to violate any of the provisions of this chapter or the fire prevention code hereby adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been modified by the board of mayor and aldermen or by a court of competent jurisdiction, within the time fixed herein. The application of a penalty under the general penalty clause for the municipal code shall not be held to prevent the enforced removal of prohibited conditions.

CHAPTER 7 - CODES ADOPTED

Sec. 12-701. - Codes adopted.

~~(9) NFPA 1 Uniform Fire Code, 2006 edition including all standards listed in chapter 2 except for NFPA 5000 and deleting section 24.3.5.1 from NFPA 101 Life Safety Code, 2006 edition.~~

ORDINANCE NO. _____
BEING AN ORDINANCE OF THE CITY COUNCIL OF MORRISTOWN,
TENNESSEE AMENDING TITLE 13 OF THE MORRISTOWN MUNICIPAL
CODE.

Be it ordained by the City Council for the City of Morristown Title 13 of the Municipal Code insofar as Section 13-202 Definitions and Section 13-208 Lien for expenses, sale of salvaged materials, other powers not limited are concerned.

TITLE 13
PROPERTY MAINTENANCE REGS

Section I.

WHEREAS, the following amendments are deemed to be in the best interest of the municipality.

NOW THEREFORE:

Section II.

Be it ordained by the City Council of the City of Morristown that Sec. 13- 202 is deleted in its entirety and substituted therefor is the following:

Sec. 13-202. Definitions.

"Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith;

"Governing body" means the council charged with governing a municipality;

"Municipality" means the City of Morristown;

"Owner" means the holder of the fee simple title and every mortgagee of record;

"Parties in interest" means all individuals, associations, corporations and others who have interests of record in a structure and who are in possession thereof;

"Place of public accommodation" means any building or structure in which goods are supplied or services performed, or in which the trade of the general public is solicited;

"Public authority" means any officer who is in charge of any department of the municipality relating to health, fire, building regulations or other activities concerning structures in the municipality;

“Public officer” means the City Administrator of the City of Morristown, or his designee; and

“Structure” means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation.

Section III.

Be it ordained by the City Council of the City of Morristown that Sec. 13-208 is deleted in its entirety and substituted therefor is the following:

Sec. 13-208. Lien for expenses, sale of salvaged materials, other powers not limited.

The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer, as well as reasonable fees for registration, inspections and professional evaluations of the property, shall be assessed against the owner of the property, and shall, upon the certification of the sum owed being presented to the municipal tax collector, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, lien of the municipality for special assessments, and any valid lien, right or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes as set forth in §§67-5-2010 and 67-5-2410. In addition, the municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom the costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, the public officer shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the municipality to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

Section IV.

Be it further ordained that all ordinances or parts of ordinances in conflict herewith be, and the same are, hereby repealed.

Section V.

Be it further ordained that this ordinance shall take effect from and after passage on second and final reading, the public welfare requiring it.

PASSED ON FIRST READING THIS THE 16TH DAY OF FEBRUARY, 2016.

ATTEST: MAYOR

CITY ADMINISTRATOR

PASSED ON SECOND AND FINAL READING THIS THE 1ST DAY OF FEBRUARY, 2016.

ATTEST: MAYOR

CITY ADMINISTRATOR

ORDINANCE NO. _____

**BEING AN ORDINANCE OF THE CITY COUNCIL OF MORRISTOWN, TENNESSEE AMENDING
TITLE 18 OF THE MORRISTOWN MUNICIPAL CODE.**

BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF MORRISTOWN, TENNESSEE, THAT TITLE
18 OF THE MUNICIPAL CODE IS AMENDED AS FOLLOWS:

**TITLE 18
WATER & SEWERS**

Chapter 4 Water Pollution Control is deleted in its entirety;
Chapter 5 Stormwater Utility Service Charges is deleted in its entirety;
Chapter 6 Land Disturbance is deleted in its entirety;
Chapter 7 Water Quality Buffer Zone is deleted in its entirety;
Chapter 8 Illicit Discharges and Connections to the Municipal Separate Storm Sewer System is
deleted in its entirety;
Chapter 9 Post Construction Water Quality Management is deleted in its entirety;
and substituted therefore is the following:

Chapter 4 Stormwater Program Ordinance

STORMWATER PROGRAM ORDINANCE

SECTIONS	Page Number
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Section 1

General Provisions

- (1) **Authorization.** The City is authorized to regulate and provide for the purposes listed in this Ordinance within the corporate limits of the City of Morristown, Tennessee, pursuant to the authority granted by Section 68-221-1105 of the Tennessee Code Annotated.
- (2) **Purpose.** It is the purpose of this Ordinance to:
 - (a) Protect, maintain, and enhance the environment of the City of Morristown and the public health, safety and general welfare of the citizens by controlling discharges of pollutants to the City's stormwater system and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow including, without limitation, all water resources, lakes, rivers, streams, pond, wetlands, and groundwater;
 - (b) Enable the City to comply with the National Pollution Discharge Elimination System (NPDES) and applicable Federal regulations as set out in 40 CFR 122.26 regarding stormwater discharges;
 - (c) Allow the City to exercise the powers granted in TCA 68-221-1105 and all other appropriate statutes with respect to stormwater facilities;
 - (d) Exercise general regulation over the planning, location, construction, operation and maintenance of all stormwater systems in the City, whether the system is owned and operated by the City or not;
 - (e) Adopt rules and regulations deemed necessary to accomplish the purposes of the Ordinance including fees for service and permits;
 - (f) Establish standards to regulate stormwater contaminants as may be necessary to protect water quality;
 - (g) Establish authority to review and approve plans and plats for stormwater management for development, redevelopment and related land disturbing activities including but not limited to subdivisions and residential, commercial, and industrial development;
 - (h) Establish authority to issue permits for stormwater discharges and for the construction, alteration, extension and maintenance of stormwater facilities;
 - (i) Establish authority to suspend or revoke permits when it is determined that the permittee has violated any provision in this Ordinance or provision of the permit;

- (j) Regulate and prohibit discharges into stormwater facilities of sanitary, industrial or commercial sewage or waters that have otherwise been contaminated; and
 - (k) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination whether public or private.
- (3) Administering entity. The City shall administer the provisions of this Ordinance through its Stormwater Program under the direction of the City Administrator or designee. The operating mechanism for the Stormwater Program is defined by the Stormwater Program Standard Operating Procedures, as amended, current edition, as maintained by the City Administrator or designee. The City Administrator or designee is authorized to enforce this Ordinance and to use its judgment in interpreting the various provisions of this Ordinance, and the Stormwater Program Standard Operating Procedures to ensure that the City's goals are accomplished.
- (4) Conflict and responsibility. This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, deed restrictions, or existing ordinances and regulations.
 - (a) If any provisions of this ordinance and any other provisions of law, regulations, or policy impose overlapping or contradictory regulations, or contain any restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards or requirements shall govern.
 - (b) Conformance with this ordinance is a minimum requirement and does not relieve the property owner, utility, facility operator, lessee, tenant, contractor, the equipment operator and/or any other person or entity doing work from applying sound judgment and taking measures which go beyond the scope of the requirements of this ordinance where necessary.
 - (c) This ordinance does not imply a warranty or the assumption of responsibility on the part of the city for the suitability, fitness, or safety of any structure with respect to flooding, water quality, or structural integrity. This ordinance is a regulatory instrument only, and is not to be interpreted as an undertaking by the city to design any structure or facility.
 - (d) Neither the approval of a discharge under this ordinance, nor compliance with the conditions of such approval, shall relieve any person of responsibility for damage to other persons or property or impose any liability upon the city for damage to other persons or property.
- (5) Overlapping Jurisdiction. The State of Tennessee, working through the Tennessee Department of Environment and Conservation (TDEC), is or may be required by federal

regulations to address stormwater pollution issues in ways which appear to overlap the goals and requirements of the Program described by this Ordinance. Where such overlaps occur and where TDEC's regulations and determinations are more restrictive, the TDEC regulations and determinations shall control. A requirement to comply with TDEC regulations and determinations shall not, in any way, relieve any party from complying with the provisions of this Ordinance.

- (6) Severability. Each separate provision of this ordinance is deemed independent of all other provisions herein so that if any provision or provision of this ordinance shall be declared invalid, all other provisions thereof shall remain enforceable.
- (7) Rules applying to Ordinance. For the purpose of this ordinance, certain rules of construction shall apply as follows:
 - (a) Words used in the singular shall include the plural, and the plural shall include the singular.
 - (b) Words used in the present tense shall include the future tense.
 - (c) The words "shall" and "will" are mandatory and not discretionary. The word "may" is permissive.
 - (d) Words not defined in this ordinance shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary
- (8) Right of Entry. The City shall make inspections and investigations, carry on research or take on such other actions as may be necessary to carry out the administration of these regulations and enter at all reasonable times upon any property other than dwelling places for the purpose of conducting investigations and studies or enforcing any of the provisions of this Ordinance, pursuant to TCA 69-3-107 (5) and (6).
- (9) Jurisdiction. The City shall administer the provisions of this Ordinance on all property inside the municipal boundaries of the City of Morristown.

Section 2

Definitions

For the purpose of this Ordinance the definitions set out below shall apply.

- (1) **303(d) list**. Refer to Impaired Waters.

- (2) **As built plans.** Drawings sealed by an engineer and/or surveyor depicting conditions as they were actually constructed.
- (3) **Administrative or Civil Penalties.** Under the authority provided in Tennessee Code Annotated §68-221-1106, the City declares that any person violating the provisions of this Ordinance may be assessed a civil penalty by the City of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.
- (4) **Best Management Practices (BMPs).** The schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of stormwater runoff. 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.
- (5) **BMP Manual(s).** Any text, included in the Stormwater Program Standard Operating Procedures, as amended, current edition, used for technical guidance by the Stormwater Program which includes additional policies, criteria, guidelines and information for the proper implementation of the requirements of the City.
- (6) **Channel.** A natural or artificial watercourse with a definite bed and bank that conducts flowing water continuously or periodically.
- (7) **City.** The City of Morristown, Tennessee.
- (8) **City Administrator or designee.** The person designated by the City of Morristown to lead the stormwater program.
- (9) **Clean Water Act.** A U.S. federal law that regulates the discharge of pollutants into the nation's surface waters, including lakes, rivers, streams, wetlands, and coastal areas.
- (10) **Clearing.** This activity refers to removal of vegetation and disturbance of soil prior to grading or excavation in anticipation of construction activities and wide area land disturbance in anticipation of non-construction activities such as the clearing of forested land in order to convert forestland to pasture for wildlife management purposes.
- (11) **Climax Successional Vegetation** - The native plant community that would be established on a site if all successional sequences were completed without interferences by man under the present environmental conditions. Natural disturbances are inherent in its development.
- (12) **Commencement of construction.** The initial disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.

- (13) **Common plan of development or sale.** This term is broadly defined as any announcement or documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, survey markings, etc.) indicating construction activities may occur on a specific plot. A common plan of development or sale identifies a situation in which multiple areas of disturbance are occurring on contiguous areas. This applies because the activities may take place at different times, on different schedules, by different operators.
- (14) **Construction.** Any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises.
- (15) **Construction General Permit (CGP).** The common name used in reference to the State of Tennessee General NPDES Permit for Discharges of Stormwater Associated with Construction Activities, latest edition, as amended.
- (16) **Construction Site Operator.** For the purpose of this Ordinance 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; 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 owner or developer;
 - (c) It is anticipated that at different phases of a construction project, different types of parties may satisfy the definition of the “construction site operator.”
- (17) **Contaminant.** Any physical, chemical, biological, or radiological substance or matter in water.
- (18) **Control Measure.** As used in this Ordinance, refers to any Best Management Practice or other method used to prevent or reduce the discharge of pollutants to Waters of the State.
- (19) **Customers of the stormwater utility.** All persons, properties, and entities served by and/or benefiting from the utility's acquisition, management, maintenance, extension,

and improvement of the stormwater management programs, systems, and facilities and regulation of public and private stormwater systems, facilities, and activities related thereto, and persons, properties, and entities which will ultimately be served as a result of the stormwater management program.

- (20) **Design storm event.** A mathematical representation of a precipitation event that reflects conditions in a given area for the design of a stormwater systems, facilities and infrastructure.
- (21) **Development.** The alteration of undeveloped land that disturbs more than 2400 square feet or increases the impervious area through construction and land disturbing activities including but not limited to, buildings or other structures, mining, dredging, clearing, grubbing, filling, grading, paving, excavating, drilling operations, and temporary or permanent storage of materials.
- (22) **Developed land.** Property altered from a natural state by construction or land disturbing activities.
- (23) **Discharge.** When used without a qualifier, refers to “discharge of a pollutant” as defined at 40 CFR §122.2; otherwise 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 non-stormwater solid or liquid matter into the municipal separate storm sewer system.
- (24) **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.
- (25) **Ecological Integrity.** The quality of a natural unmanaged or managed ecosystem in which the natural ecological processes are sustained, with species diversity and ecosystem diversity assured for the future.
- (26) **Engineer.** A person registered with the Tennessee Board of Architectural and Engineering Examiners and licensed to practice engineering in the state of Tennessee.
- (27) **Equivalent residential unit (ERU).** The median impervious coverage of detached dwelling unit properties in the city as determined by the city. Two thousand four hundred (2,400) square feet of impervious area shall be one (1) equivalent residential unit (ERU).
- (28) **Erosion.** The removal of soil particles by the action of water, wind, ice or other meteorological events, whether naturally occurring or acting in conjunction with or promoted by human activities or effects.

- (29) **Erosion Prevention.** Practices implemented to prevent, through vegetating, shielding, binding, or other mechanism(s), the suspension of soil particles.
- (30) **Erosion Prevention and Sediment Control Plan (EPSC Plan).** The drawings, specifications and other graphic representations for the site specific design of erosion prevention and sediment control best management practices that are intended to minimize the erosion and sediment runoff at a site during construction that are to be used during construction for the installation and implementation of the BMP's.
- (31) **Exceptional Tennessee Waters (ETW).** 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 the Tennessee Department of Environment and Conservation.
- (32) **Fully Completed Application.** The completed, signed application form accompanied by the appropriate permit fee and the required items indicated on the application form.
- (33) **Green Infrastructure.** The interconnected network of natural areas, open spaces and green infrastructure practices intended to infiltrate, evapotranspire, harvest and/or use rainwater though the use of natural hydrologic features that conserves natural ecosystem values and functions, sustains clean air and water, and provides environmental and community benefits.
- (34) **Green Infrastructure Practices (GIPs).** Individual or networked management measures that are designed, built and maintained to infiltrate, evapotranspire, harvest and/or use rainwater though the use of natural hydrologic features.
- (35) **Greenways.** Linear undeveloped areas linking various types of development by such facilities as bicycle paths, footpaths, and bridle paths. Greenways are usually kept in their natural state except for the pathway and areas immediately adjacent to the pathway.
- (36) **Hazardous material.** Material defined as a hazardous material under U.S. Department of Transportation regulations.
- (37) **Hotspot.** An area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. The following land uses and activities are deemed stormwater hot spots, but that term is not limited to only these land uses and activities:

- (a) Salvage yards and recycling facilities;
 - (b) Vehicle service and maintenance facilities including but not limited to vehicle, truck or equipment maintenance, fueling, washing or storage areas, gas stations, automotive dealerships, automotive repair shops, and car wash facilities;
 - (c) Large impervious surfaces, such as large parking lots, driveway, drive aisles and roofs.
 - (d) Fleet storage areas (bus, truck, etc.);
 - (e) Industrial sites (included on EPA Standard Industrial Classification code list);
 - (f) Marinas (service and maintenance);
 - (g) Public works storage areas;
 - (h) Facilities that generate or store hazardous waste materials;
 - (i) Commercial container nursery;
 - (j) Restaurants and food service facilities;
 - (k) Commercial facilities with outside animal housing areas including animal shelters, fish hatcheries, kennels, livestock stables, veterinary clinics, or zoos;
 - (l) Other land uses and activities as designated by the City Administrator or designee using information gathered through investigation, research, notification by regulatory agency, engineering analysis or scientific study.
- (38) **Industrial waste.** Liquid or other waste resulting from any process of industry, manufacturer, trade or business or from the development of any natural resources.
- (39) **Inflow.** Stormwater that enters into sanitary sewer systems at points of direct connection to the systems.
- (40) **Illicit Connections.** Illegal and/or unauthorized connections to the Municipal Separate Storm Sewer System (MS4) whether or not such connection result in discharges into that system.
- (41) **Illicit Discharge.** Defined at 40 CFR §122.26(b)(2) and refers to any discharge to a Municipal Separate Storm Sewer System (MS4) that is not entirely composed of stormwater, **except** discharges authorized under an NPDES permit (other than the

NPDES permit for discharges from the MS4) and discharges resulting from firefighting activities.

- (42) **Impaired Waters.** Any segment of surface waters that has been identified by the Tennessee Department of Environment and Conservation (TDEC) as failing to support classified uses. The TDEC periodically compiles a list of such waters known as the “303(d) List”.
- (43) **Impervious surfaces** A term generally applied to any ground or structural surface that water cannot penetrate or through which water penetrates with great difficulty and being further defined as those polygonal features that significantly (but not absolutely) prevent the draining of stormwater into the ground. Typically, these features include but are not limited to: buildings, building foundations, storage tanks, parking lots, roads, driveways, runways, taxiways, aprons, hardened athletic courts, patios, decks, travel ways, parking and other areas comprised of gravel or un-vegetated soils, sidewalks (concrete or asphalt), concrete slabs surrounding swimming pools, or any other hardened surface consisting of concrete, asphalt, or other impervious material.
- (44) **Inspection and Maintenance Agreement (I&M Agreement).** A legally recorded document which acts as a property deed restriction and which provide for long-term maintenance of stormwater management practices.
- (45) **Inspector.** An inspector is a person that has successfully completed (has a valid certification from) the “Fundamentals of Erosion Prevention and Sediment Control Level I” course or equivalent course. An inspector performs and documents the required inspections, paying particular attention to time-sensitive permit requirements such as stabilization and maintenance activities. An inspector may also have the following responsibilities:
 - (a) Oversee the requirements of other construction-related permits, such as Aquatic Resources Alteration Permit (ARAP) or Corps of Engineers permit for construction activities in or around Waters of the State ;
 - (b) Update field SWPPPs;
 - (c) Conducts pre-construction inspection to verify that undisturbed areas have been properly marked and initial measures have been installed; and
 - (d) Inform the permit holder of activities that may be necessary to gain or remain in compliance with the Construction General Permit (CGP) and other environmental permits.

- (e) Conducts post construction inspections for the purposes of verification of final stabilization, permanent vegetation and as-built stormwater management facilities.
- (46) **Invasive Exotic Plants.** Plants that have been introduced from other regions and compete so successfully against native plants that they can crowd out their competitors, thus providing a monoculture that discourages the growth of native plant species.
- (47) **Land Disturbance Activity.** 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, tree removal, and alterations of water quality buffer zones, alterations to water resources, grubbing, grading, filling, and excavation.
- (48) **Landscape Architect.** A person registered with the Tennessee Board of Architectural and Engineering Examiners and licensed to practice landscape architecture in the state of Tennessee.
- (49) **Maintenance.** Any activity that is necessary to keep a stormwater facility or system in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility or system if reconstruction is needed in order to restore it to the original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the function of the stormwater facility or system.
- (50) **Multiple dwelling unit residential properties.** Developed land whereon three (3) or more attached residential dwelling units are located. Multiple dwelling unit residential properties shall include, but not be limited to, apartment houses, condominiums, townhomes, attached single-family homes, boarding houses, group homes, hotels and motels, retirement centers, multiple duplexes located on a single parcel of land, and other structures in which three (3) or more family groups commonly and normally reside or could reside.
- (51) **Municipal Separate Storm Sewer System (MS4).** Defined at 40 CFR §122.26(b) (8) and means the conveyances or system of conveyances for the collection and transportation of stormwater, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, or storm drains that are:
 - (a) Owned or operated by federal, state, city, town, borough, parish, district, association, municipality or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer

district, flood control district or drainage district, or similar entity, or a designated and approved management agency under section 208 of the CWA that discharges to Waters of the State;

(b) Designed or used for collecting or conveying stormwater;

(c) which is not a combined sewer; and

(d) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR §122.2.

(52) **Municipality.** As used herein refers to City of Morristown, Tennessee, a City and political subdivision of the State of Tennessee.

(53) **National Pollutant Discharge Elimination System or (NPDES) permit.** The national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of the federal CWA. The term includes an "approved program."

(54) **Native Vegetation.** The normal vegetation that grows or would reestablish normally after a disturbance. This does not include Invasive Exotic Plants.

(55) **Notice of Intent (NOI).** The mechanism used to "register" for coverage under a general permit from the Tennessee Department of Environment and Conservation (TDEC).

(56) **Organization.** A corporation, government, government subdivision or agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(57) **Other developed land.** Other developed land shall mean, but shall not be limited to, multiple dwelling unit residential properties as defined in this ordinance, manufactured home and mobile home parks, commercial and office buildings, public buildings and structures, industrial and manufacturing buildings, storage buildings and storage areas covered with impervious surfaces, parking lots, parks, recreation properties, public and private schools and universities, research stations, hospitals and convalescent centers, airports, agricultural uses covered by impervious surfaces, water reservoirs, and water and wastewater treatment plants.

(58) **Person or Owner.** Any individual, firm or association and any public or private corporation or entity organized or existing under the laws of this or any other state, and includes the plural i.e. "owner" and "owners" are interchangeable.

(59) **Pollutant.** Sewage, industrial waste, or other waste or materials, whether liquid or solid.

- (60) **Qualified Hydrologic Professional.** Persons meeting the minimum qualifications set forth in Rules of the Tennessee Department of Environment and Conservation Division of Water Resources Chapter 0400-40-17.01 and successfully completing the TN-HDT course and course exam and are certified and as designated by TDEC as a Tennessee Qualified Hydrologic Professional (TN-QHP), as amended, latest edition.
- (61) **Redevelopment.** The alteration of developed land that disturbs more than 2400 square feet and increases the existing site or building impervious footprint by more than 2400 square feet, 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.
- (62) **Responsible Party.** Owners and/or occupants of property within the City who are subject to penalty in case of default.
- (63) **Riparian Zone.** The area adjacent to a water resource with a differing density, diversity, and productivity of plant and animal species relative to nearby uplands. This area provides a transition from an aquatic ecosystem to a terrestrial ecosystem.
- (64) **Runoff.** The portion of the precipitation on a drainage area that is discharged from the area to downstream areas. Also see stormwater runoff.
- (65) **Runoff Reduction (RR).** An approach to permanent stormwater management that uses avoidance and minimizing design approaches as well as infiltration-based control measures to reduce the amount of impervious surface runoff.
- (66) **Runoff Reduction Method (RRM).** A method of applying site design practices to minimize impervious cover, grading, and loss of forest cover and applying runoff reduction (RR) to permanent stormwater management to reduce post-development runoff volumes.
- (67) **Runoff Reduction Volume (RRV).** A computed volume of runoff, or equivalent metric, used for the design, sizing, and construction specification of Green Infrastructure, BMP's, GIP's, Stormwater Management Facilities, and related post construction stormwater controls.
- (68) **Sanitary sewer.** A system of underground conduits that collect and deliver sanitary wastewater to a wastewater treatment plant.
- (69) **Sanitary wastewater.** Water that has been used and contains dissolved or suspended waste materials and which may originate from domestic, residential, industrial, commercial or agricultural activities, sewer inflow, and sewer infiltration within the jurisdictional limits of the City of Morristown.

- (70) **Sediment.** 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.
- (71) **Sediment Control.** Practices implemented to manage through filtering, settling, screening or other mechanism(s) to remove suspended particles (soil, organic or mineral) from water.
- (72) **Sedimentation.** Process of deposition of a solid material from a state of suspension in fluid, usually air or water.
- (73) **Single family residential detached dwelling unit.**
- (a) Developed land containing one structure which is not attached to another dwelling and which contains one or more rooms with a bathroom and kitchen facilities designed for occupancy by one family; or,
 - (b) A single duplex structure located on a single parcel of land or a single duplex structure where each half of the duplex is located on a single parcel of land.
 - (i.) Single family residential detached dwelling units may include houses, manufactured homes, and mobile homes located on one or more individual lots or parcels of land.
 - (ii.) Developed land may be classified as a single family residential detached dwelling despite the presence of incidental structures associated with residential uses such as garages, carports, or small storage buildings. Single family residential detached dwelling units can also include developed land that has a non-residential use of a single dwelling unit or duplex designed for occupancy for one or two families so long as such use does not result in additional impervious areas, such as parking spaces, impervious surfaced playgrounds, or structures or additions to the building which are used as offices, storage facilities, meeting rooms, classrooms, houses of worship, or similar non-residential uses that are not normally associated with single family or duplex residential housing.
 - (iii.) Single family residential detached dwelling unit shall not include developed land containing: manufactured homes and mobile homes located within manufactured home or mobile home parks where the land is owned by others than the owners of the manufactured homes or mobile homes; multiple duplexes located on a single parcel of land; or multiple-unit residential properties having three or more attached residential dwelling units.

- (74) **Sinkhole.** A naturally occurring depression where drainage collects in the earth's surface that is a minimum of two feet (2') deep or; 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.
- (75) **Soil reports.** 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 Soil Scientist who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees.
- (76) **Special Pollution Abatement Plan (SPAP).** A SPAP is a detailed plan that outlines the implementation of best management practices, stormwater management practices, controls and facilities that will be implemented in order to protect water quality after development or redevelopment is complete.
- (77) **Stabilization.** Providing adequate measures, vegetative or structural, that will prevent erosion from occurring.
- (78) **Steep Slope.** A natural or created slope of 35% grade or greater. Designers of sites with steep slopes must pay attention to stormwater management in the SWPPP to direct runoff non-erosively around or over a steep slope. In addition, site managers should focus on erosion prevention on the slope(s) and stabilize the slope(s) as soon as practicable to prevent slope failure and/ or sediment discharges from the project.
- (79) **Stormwater.** Is defined at 40 CFR §122.26(b) (13) and means runoff from rain events, snowmelt runoff, and surface runoff and drainage.
- (80) **Stormwater Control Measures.** Stormwater Control Measure (SCM) – Measures, such as BMP's, GIP's, and stormwater management facilities meant to directly affect the flow of stormwater and/or contaminants, and that have defined specifications and standards. These measures have one or both of two parts:
- (a) a defined surface management to encourage infiltration and contaminant removal and/or;
 - (b) a clear Protocol defining engineering design, installation, and maintenance. A measure such as a "good forest" has just a Management, a Measure such as a manufactured stormwater treatment device has just an engineering Protocol, and a "bio retention cell" has both.
 - (c) See also Best Management Practices, Green Infrastructure, Stormwater Management Facility and GIP's.

- (81) **Stormwater Management.** The practices, strategies, and controls used to maintain the quality and quantity of stormwater runoff at pre-development levels.
- (82) **Stormwater management facility.** A manmade structure either privately or publicly owned, for which the partial or full purpose or use is to retain and control the quality and/or quantity of stormwater runoff.
- (83) **Stormwater Management Plan (SWMP).** The set of drawings and other documents including but not limited to water quality management plans, special pollution abatement plans, construction plans, post construction plans, runoff reduction analysis, hydrologic analysis, hydraulic analysis and design specifications that comprise all the information for the design, construction, inspection and maintenance of the practices, strategies, controls, for construction and post construction management including but not limited to drainage systems, conveyances, structures, BMPs, green infrastructure practices, stormwater control measures, concepts and techniques intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels.
- (84) **Stormwater Pollution Prevention Plan (SWPPP).** A written plan that includes site map(s), an identification of construction/contractor activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants as provided in the ESPC Plan and in accordance with the Tennessee Erosion and Sediment Control Handbook or Stormwater Program Standard Operating Procedures, whichever is more stringent and protective of waters of the state.
- (85) **Stormwater Program.** Refers to the Program created by City of Morristown and the City Administrator to administer the provisions of this Ordinance and to manage the quantity and quality of stormwater discharged in or from the City's municipal separate storm sewer system (MS4).
- (86) **Stormwater Program Cost.** Refers to any monetary cost incurred by the Stormwater Program in order to fulfill the responsibilities and duties assigned to the Program under this Ordinance. Program costs specifically include costs incurred by the City for actions performed on behalf of or at the request of the Program.
- (87) **Stormwater Program Standard Operating Procedures.** Standing procedures developed and maintained by the City Administrator or designee to be followed in carrying out the operation, management and maintenance of the municipal separate stormwater sewer system.
- (88) **Stormwater Program Service Area.** The entire physical area within the corporate limits of the City of Morristown.
- (89) **Stormwater Program Staff.** The group of people hired to assist the City Administrator in carrying out the duties of the Stormwater Program.

- (90) **Stormwater Runoff.** The flow on the surface of the ground resulting from precipitation.
- (91) **Stormwater service charge or "stormwater utility service charge".** The stormwater management service charge or charges applicable to a parcel of developed land, which charge shall be reflective of the City of Morristown stormwater utility's cost of providing stormwater management services and facilities.
- (92) **Stormwater system.** The system of drainage, curbs and gutters, curb inlets, swales, catch basins, manholes, gutters, ditches, pipes, lakes, ponds, sinkholes, channels, creeks, streams, storm drains, and similar conveyances and facilities, both natural and manmade, located within the city which are designated or used for collecting, storing, or conveying stormwater, or through which stormwater is collected, stored or conveyed, whether owned or operated by the City of Morristown or another entity, person or operator.
- (93) **Stormwater Violations Appeals Board** – A board appointed by the City Council to hold hearings upon appeals from enforcement orders or actions of the Stormwater Program, or City Administrator or designee.
- (94) **Stream.** Surface water that is not a wet weather conveyance.
- (95) **Structural BMPs.** The devices that are constructed to provide control of stormwater runoff.
- (96) **Surface water.** Water upon the surface of the earth in bounds created naturally or artificially including, but not limited to, water resources, streams, other water courses, lakes and reservoirs.
- (97) **Surveyor.** A person registered with the Tennessee Board of Examiners for Land Surveyors and licensed to practice surveying in the state of Tennessee.
- (98) **Tennessee Department of Environment and Conservation (TDEC).** Is the state agency having water pollution control oversight.
- (99) **Top of Bank.** The ordinary high water level and break in slope for a water resource.
- (100) **Tributary Area.** The area upstream of a specified point including all overland flow that directly or indirectly connects down-slope to the specified point.
- (101) **Water Resources.** For the purpose of this Ordinances, means Streams, seeps, springs, wetlands, lakes, other surface waters and water resources that are not wet weather conveyances.

(102) **Water Quality Buffer Zone.** An area, measured from top of bank of the water resource, which consists of a riparian zone comprised of original or reestablished native vegetation, bordering streams, seeps, springs, wetlands, lakes or other water resources.

(103) **Water Quality Management Plan.** See Stormwater Management Plan.

(104) **Watercourse.** A man-made or natural hydrologic feature with a defined linear channel which discretely conveys flowing water, as opposed to sheet-flow.

(105) **Waters of the State (or waters).** Any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through, or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine or effect a junction with natural surface or underground waters.

(106) **Watershed.** All the topographically defined land area that contributes runoff to a particular point along a waterway.

(107) **Wet weather conveyance.** Man-made 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 ground water 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 months.

(108) **Wetlands.** Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted to life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs and similar areas.

Section 3

Land Disturbance Permit

- (1) All land disturbing activities shall be in compliance with and permitted under this ordinance.
- (2) No person or entity shall:
 - (a) Clear, grub, grade, alter the natural or existing topography, dump, move or place fill material, excavate, remove any vegetation, alter water quality buffer zones, alter a water resource or begin any land disturbance activities without first obtaining a Land Disturbance Permit for activities requiring a permit under this ordinance.
 - (b) Commence development or redevelopment of any site, building or structure without obtaining a Land Disturbance Permit for activities requiring a permit under this ordinance.
 - (c) Perform land disturbance activities under a Land Disturbance Permit that does not conform to the approved plans.
- (3) Every person or entity shall obtain a Land Disturbance Permit from the City in the following cases:
 - (a) Land disturbing activity, including New Development and Redevelopment that disturbs one acre or more of land or where a proposed change of impervious area results in an increase of one-half acre or more of impervious area;
 - (b) Land disturbing activity that disturbs less than one acre of land if:
 - (i) The City Administrator or designee has determined that the stormwater discharge from a site or activity is causing, contributing to, or is likely to contribute to a violation of a state water quality standard;
 - (ii) The City Administrator or designee has determined that the stormwater discharge is, or likely to be a significant contributor of pollutants to Waters of the State;
 - (iii) Any new development or redevelopment, regardless of size that proposes land disturbing activities within 100 feet of a water resource.

(4) Every person, owner or entity shall apply for coverage under the State of Tennessee's General NPDES Permit for Discharges of Stormwater Associated with Construction Activity, as amended, latest edition in the following cases:

- (a) If the project results in the disturbance of one acre or more of total land area.
- (b) Projects or developments of less than one acre of land disturbance if the construction activities at the site are part of a larger common plan of development or sale that comprises one acre or more of land disturbance.
- (c) Projects or developments of less than one acre of total land disturbance where the director, or authorized representative, of the Division of Water Pollution Control of the State of Tennessee, Department of Environment and Conservation has determined that:
 - (i) the stormwater discharge from a site is causing, contributing to, or is likely to contribute to a violation of a state water quality standard;
 - (ii) the stormwater discharge is, or is likely to be a significant contributor of pollutants to waters of the state, or
 - (iii) changes in state or federal rules require sites of less than one acre that are not part of a larger common plan of development or sale to obtain a stormwater permit.

(5) Exemptions: The following activities are exempt from the permit requirement.

- (a) Any emergency activities that are immediately necessary for the protection of life, property or natural resources;
- (b) Agricultural land management activities;
- (c) Additions or modifications to an existing single family residential structure or property that disturb less than one (1) acre, including residential gardens.
- (d) The owner or developer whose land disturbing activity has been exempted from requirements for registration shall nevertheless be responsible for otherwise conducting such activity in accordance with the provisions of this ordinance and other applicable laws including responsibility for controlling erosion and sedimentation. Where individual lots or sections in a subdivision are being developed by different property owners, all earth disturbing activities related to the subdivision shall be covered by the approved erosion prevention and sediment control plan (EPSC) and the approved stormwater pollution prevention plan (SWPPP) for the larger common plan ; such developments are subject to

the terms of the requirements therein, including but not limited to: gravel construction entrance/exits, necessary erosion controls, concrete washout restrictions, etc.

(6) Land disturbance permits. Each application for the issuance of a permit under this section shall include the following:

- (a) Name, address and telephone number of owner or developer of land;
- (b) Name of Applicant
- (c) Business or residence address of applicant
- (d) Address and legal description of subject property or properties including the tax map and parcel number;
- (e) Name, address and telephone number of the contractor and any subcontractor(s) who will perform the land disturbing activity and who will implement the erosion and sediment control plan;
- (f) If a Tennessee General NPDES Permit is applied for, a copy of the Notice of Intent (NOI) as well as a copy of the Notice of Coverage (NOC) issued by the state shall be sent to the City Administrator or designee;
- (g) A project narrative describing the land disturbance activity, including the size of the area for which the permit is applicable, and a schedule for the starting and estimated completion dates of each phase of the land disturbing activity;
- (h) Disturbed area in acres if over proposed land disturbance is over one (1) acre and in square feet if proposed land disturbance is under one (1) acre.
- (i) A description of the existing impervious area with a total or aggregate amount of impervious area provided in square feet for each parcel or property of the development or redevelopment;
- (j) Drainage areas for all proposed disturbed areas and the drainage areas both onsite and offsite to each disturbed area;
- (k) Distance from the project site and proposed land disturbance activities to the nearest water resource;
- (l) An Erosion Prevention and Sediment Control Plan to address Construction Site Runoff Control, as described in Section 4;

- (m) A Stormwater Pollution and Prevention plan to addresses activities at the site that cause or introduce pollutants in stormwater, as described in Section 4, for all land disturbing activity that results in the disturbance of one half acre or more of total land area or an increase in over one half acre of impervious area or both;
 - (n) A Stormwater Management Plan to address permanent stormwater management in New Development and Redevelopment as described in Section 5, for all land disturbing activity that requires a SWMP under Section 5 of this ordinance;
 - (o) Each application for a land disturbance permit shall be accompanied by payment of Land Disturbance Permit fee and any other necessary Stormwater Management fees required by this Ordinance; and
 - (p) When the City Administrator or designee has determined the need for verification of existence of a water resource, the application shall be accompanied by a Hydrologic Determination performed by a Qualified Hydrologic Professional (QHP).
- (7) Review and approval of application.
- (a) The City Administrator or designee or their designated representative shall review each application for a Land Disturbance Permit to determine its conformance with the provisions of this Ordinance. Within thirty (30)days after receiving the application the Stormwater Program shall provide one of the following responses in writing to the applicant:
 - (i) Approval of permit application;
 - (ii) Approval of permit application, subject to reasonable conditions as may be necessary to secure the objectives of this Ordinance and other applicable regulations, and issue the permit subject to these conditions; or
 - (iii) Denial of the permit application indicating the reason(s) for the denial.
 - (b) No land disturbance permit or building permit shall be issued until an Erosion Prevention and Sediment Control Plan (EPSCP) has been approved by the City Administrator or designee for projects requiring an ESPCP under this ordinance.
 - (c) No land disturbance permit or building permit shall be issued until a Stormwater Pollution Prevention Plan (SWPPP) has been approved by the City Administrator or designee for projects requiring a SWPPP under this ordinance.

- (d) No land disturbance permit, building permit or site plan approval shall be issued until a Stormwater Management Plan (SWMP) has been approved by the City Administrator or designee for projects requiring a SWMP under this ordinance.
- (e) The City Administrator or designee shall not approve an EPSCP, SWPPP or SWMP without the inclusion of an approval stamp accompanied by a signature and date on the plans. The stamp of approval on the plans is solely an acknowledgement of satisfactory compliance with the requirements of these regulations. The approval stamp does not constitute a representation or warranty to the applicant or any other person(s) concerning the safety, appropriateness or effectiveness of any provision or omission from the plans.
- (f) A permit application fee of fifty dollars (\$50.00) for zero to two (0-2) disturbed acres plus twenty-five dollars (\$25.00) per acre or portion thereof above two (2) acres with a maximum fee of one hundred twenty-five dollars (\$125.00) shall be charged the applicant for review of the application. Failure to obtain any permit required hereunder prior to commencing land disturbing activity, in addition to all other fines and civil penalties provided hereunder, shall increase the permit application fee by one hundred percent (100%).
- (g) No site plan, planned unit development plan, nor subdivision plat shall be considered as having received final approval until such time as all conditions have been met to allow the issuance of a Land Disturbance Permit under the provisions of Sections 3, 4 and 5 of this Ordinance.
- (h) No plat for subdivision of property where land disturbance is required or proposed shall be considered having received final approval until such time as all conditions have been met to all the issuance of a Land Disturbance Permit under the provisions of Sections 3, 4, and 5 of this Ordinance.
- (i) Pre-Submittal and Pre-Construction coordination and/or meetings shall be conducted for all Development activities receiving Land Disturbance permits in the following case:
 - (i) project results in the disturbance of one acre or more of land area
 - (ii) project or development of less than one acre or land disturbance if the construction activities at the site are part of a larger common plan of development or sale that comprise at least one acre of land.
 - (iii) Project where the construction activities and/or land disturbance at the site are within 100' of a water resource.

- (j) A Land Disturbance Permit shall expire and become null and void if substantial work authorized by such permit has not commenced within (1) calendar year of issuance.
 - (k) If work is to continue after the expiration of the permit, the permit holder shall submit a written request for renewal of the permit to the City Administrator or designee as outlined under this section. If work is complete at the time of permit expiration, the permit holder shall submit a Request for Final Inspection to the Stormwater Program as outlined below.
- (8) Performance bond. A performance bond in an amount equal to one hundred fifty percent (150%) of the city's estimated cost of completion of the work identified in the permit(s), in form satisfactory to the city shall be required as a condition precedent to the city's issuance of the land disturbing permit for all land disturbing activity that results in the disturbance of one acre or more of total land area;
- (9) Release of Bond. Upon completion of the land disturbing activity, approval of the request for termination, approval of the as-built post construction stormwater management survey and analysis, and recording of the inspection maintenance agreement with the Hamblen County Register of Deeds the performance bond will be released subject to any amounts required to be withheld until permanent vegetation is established.
- (10) Transfer of ownership.
- (a) Some construction projects, such as residential or commercial subdivisions and/ or developments or industrial parks are subdivided. Subdivided lots are sometimes sold to new owners prior to completion of construction. The site developer/ owner must describe erosion control and sediment prevention measures implemented at those lots. Once the property is sold, the new operator must obtain coverage under this permit.
 - (b) If the transfer of ownership is due to foreclosure or a permittee filing for bankruptcy proceedings, the new owner (including but not limited to a lending institution) must obtain permit coverage if the property is inactive, but is not stabilized sufficiently. If the property is sufficiently stabilized permit coverage may not be necessary, unless and until construction activity at the site resumes.
- (11) Renewal of a permit.
- (a) The applicant is solely responsible for submitting a written request for renewal to the City Administrator or designee, if work is to continue after the expiration of the permit.

- (b) Renewal of the permit may require payment of an additional land disturbance permit fee.
- (12) Amendment of a permit. A land disturbing permit shall be amended when significant changes from the initial permit occurs as follows:
 - (a) Project changes resulting in an increased or decreased amount of disturbed land from what was indicated in the original permit application.
 - (b) Changes resulting in different permanent runoff characteristics from those that were permitted in the initial permit.
 - (c) Changes resulting in an increase in impervious area.
- (13) Amendments to a permit shall be submitted in writing to the City Administrator or designee, and shall include documentation of the changes requiring the amendment. Such documentation may include, but is not limited to; revised site drawings; amended EPSCP, SWPPP, SWMP; revised hydrology reports and revised permanent stormwater inspection and maintenance plans. Additional fees may be required for an amended permit.
- (14) Notice of Termination.
 - (a) Land disturbance permits shall remain in effect as stated in this Ordinance until a Request for Final Inspection is submitted to the City Administrator or designee and the request is processed and approved by the Stormwater Program. The request for final inspection applies only to the construction component of the permit. The permanent stormwater management component(s), described in the Inspection and Maintenance Agreement and related documentation of the permit shall have no expiration.
 - (b) Supporting documents required for the submittal of the Final Inspection shall be outlined on the Request for Final Inspection form and provided to the applicant at permit issuance.
 - (c) Failure to submit the Request for Final Inspection and supporting documentation and receive approval of Termination of a permit may result in the City Administrator's or designee's request to withhold the issuance of a Certificate of Occupancy or approval of a final plat.
 - (d) Permit holders shall be notified in writing when their permit has been terminated.

- (e) Termination of the land disturbance component of the permit does not relieve responsibility for proper inspection, operation and maintenance of the permanent stormwater management devices, measures, controls, and facilities as required in the Inspection and Maintenance Agreement, as described in Section 5.
- (15) Inspections and Site Assessment. Site inspection and site assessment of all erosion and sediment control practices shall be performed by permit holders or their designated representative for any land disturbance activities covered under a land disturbance issued pursuant to Sections 3, 4 and 5 of this Ordinance in accordance with the current edition of the "State of Tennessee's General NPDES Permit for Discharges of Stormwater Associated with Construction Activity" where the land disturbance meets the requirements of Section(s) 3.3(a)(b)(c) as provided under this ordinance.
- (16) The Stormwater Program may perform inspections on priority construction sites and other construction sites as warranted by site location and complaints. If the Stormwater Program determines that the permit holder has failed to properly install, maintain, or use proper structural or vegetative erosion and sediment control practices as specified in the erosion and sediment control plan, stormwater management plan and the post construction design and maintenance plans, the permit holder may be subject to a stop work order or additional penalties in accordance with Sections 8 and 9 of this Ordinance and the City of Morristown Stormwater Program Standard Operating Procedures; as amended, most current edition.
- (a) The City Administrator or designee may require inspection by an engineer for any erosion and sediment control measure or post construction stormwater management facility to ensure they meet the design standards as described in the approved construction site plans, post construction site plans, and stormwater management plan. If the City Administrator or designee determines that significant erosion or sedimentation is occurring on a site despite approved structural or vegetative erosion and sediment control practices, the Stormwater Program shall require the permit holder to take additional corrective action to protect the adversely affected area. The additional corrective action required shall be part of an amended stormwater pollution prevention plan and the erosion and sediment control plan.
- (b) Inspections and maintenance for post construction stormwater facilities shall be performed as required in Section 5 for design and maintenance of stormwater management systems, facilities and BMPs in accordance with the City of Morristown Stormwater Program Standard Operating Procedures; as amended, most current edition.
- (17) Disclaimer of liability. The submission of plans under the provisions herein, the compliance with the provisions of these regulations, and/ or the satisfaction of any

requirements or any approvals of the Stormwater Program shall not relieve any person from responsibility for damages to any person or property otherwise imposed by law; nor shall the foregoing impose any liability upon City of Morristown, its officials, its representatives, and/ or agents for damages to any person or property.

Section 4

Erosion Prevention and Sediment Control

This section shall be applicable to all Land Development, including new Development and Redevelopment, subject to a Land Disturbance Permit as described in this Ordinance.

(1) **Erosion Prevention and Sediment Control BMP manuals.**

- (a) The Stormwater Program adopts as its best management practices (BMP) manuals for, construction sequencing, erosion prevention and sediment control for vegetative and structural BMP's, the City of Morristown Stormwater Program Standard Operating Procedures; as amended, most current edition.
- (b) The Stormwater Program Standard Operating Procedures include a list of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each BMP and stormwater practice. Designs contained in the Stormwater Program Standard Operating Procedures may be adjusted at the discretion of the design engineer in accordance with updated and improved practices, subject to the City Administrator or designee approval.
- (c) The Stormwater Program Standard Operating Procedures may be updated and expanded from time to time, upon the recommendation of the City Administrator or designee based on improvements in engineering, science, monitoring and local maintenance experience, or changes in federal or state law or regulation. Stormwater facilities that are designed, constructed and maintained in accordance with these criteria will be presumed to meet the minimum water quality performance standards.

(2) **Stormwater Pollution Prevention Plan (SWPPP).** The Stormwater Pollution Prevention Plan shall provide for a site-specific written document that accurately describes the potential for stormwater pollution at the project site and shall explain and illustrate the measures that are to be taken to control stormwater pollution at the source. The plan shall conform to the requirements found in the current TDEC Construction General Permit for construction site stormwater and the Stormwater Program Standard Operating Procedures The plan shall be signed and sealed by an engineer or landscape architect and shall provide for the following:

- (a) Identifies all potential sources of stormwater pollution at the construction site

- (b) Describes practices to reduce all pollutants in stormwater discharges from the construction site.
 - (c) Describes how reduction of pollutants will be achieved by controlling the volume and velocity of stormwater runoff for construction and post construction.
 - (d) Provide for all signatory, record keeping, inspections, rainfall data, inspection logs, chain of custody procedures and related administrative requirements of the construction general permit
 - (e) Identifies procedures the operator will implement to comply with all terms and conditions of the construction general permit
- (3) A SWPPP meeting the minimum requirements of this section shall be provided for all land disturbing activity that results in the disturbance of one half acre or more of total land area and meets the following criteria:
- (a) A Water Quality Buffer Zone is present on or adjacent to the project site or proposed land disturbance activity.
 - (b) Stormwater discharges from the project site or land disturbance activity will discharge directly to a Water Resource.
- (4) Erosion Prevention and Sediment Control Plans (EPSCP). As a critical component of the SWPPP, the erosion and sediment control plan shall accurately describe the potential for soil erosion and sedimentation problems resulting from land disturbing activity and shall explain and illustrate the measures that are to be taken to control erosion at the source and prevent the transport of sediment from the project to downstream property. The length and complexity of the plan will depend upon the size of the project, severity of the site condition and potential for off-site damage. The plan shall conform to the requirements found in the current TDEC Construction General Permit for construction site stormwater and the Stormwater Program Standard Operating Procedures. The plan shall be sealed by an engineer or landscape architect.
- (5) An EPSCP meeting the minimum requirements of this section shall be provided for all projects requiring a land disturbance permit under this ordinance.
- (6) The erosion and sediment control plan shall include the following:
- (a) Name, address and telephone number of owner or developer of land;
 - (b) Address and legal description of subject property or properties including the tax map and parcel number;

- (c) Name, address and telephone number of the contractor and any subcontractor(s) who will perform the land disturbing activity and who will implement the erosion and sediment control plan;
- (d) A project narrative describing the land disturbance activity, including the size of the area for which the permit is applicable, the number of units and location of structures to be constructed, infrastructure required and a schedule for the starting and estimated completion dates of each phase of the land disturbing activity;
- (e) Disturbed area in acres if proposed land disturbance is over one (1) acre and in square feet if proposed land disturbance is under one (1) acre.
- (f) A description of the pre-developed and post developed drainage system including the drainage areas for all proposed disturbed areas and the drainage areas both onsite and offsite to each disturbed area;
- (g) Distance from the project site and proposed land disturbance activities to the nearest water resource including the location and identification of all existing drainage ways, including streams and wet-weather conveyances and including floodways or floodplains to which the project site will drain.
- (h) A topographic map with contour intervals of two (2) feet or less showing present conditions and proposed contours resulting from land disturbing activity.
- (i) A general description of existing land covers. Individual trees and shrubs do not need to be identified.
- (j) Stands of existing trees as they are to be preserved upon project completion, specifying their general location on the property. Differentiation shall be made between existing trees to be preserved, trees to be removed and proposed planted trees. Tree protection measures must be identified, and the diameter of the area involved must also be identified on the plan and shown to scale. Information shall be supplied concerning the proposed destruction of specimen trees in buffers, setbacks and buffer strips, where they exist. Complete landscape plans may be submitted separately. The plan must include the sequence of implementation for tree protection measures for construction and post construction.
- (k) Approximate limits of proposed clearing, grading and filling.
- (l) A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.
- (m) Location, size and layout of proposed stormwater and sedimentation control improvements.

- (n) The proposed drainage network and proposed waterway sizes.
- (o) Approximate flows of existing stormwater leaving any portion of the site and approximate flows leaving site after construction and incorporating water run-off mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The plan must address the adequacy of outfalls from the development: when water is concentrated, what is the capacity of waterways, if any, accepting stormwater off-site; and what measures, including infiltration, sheeting into buffers, etc., are going to be used to prevent the scouring of waterways and drainage areas off-site, etc.
- (p) The projected sequence of work represented by the grading, drainage, sedimentation and erosion control plans as related to other major items of construction, beginning with the initiation of excavation and including the construction of any sediment basins or retention/detention facilities or any other structural BMPs. Plans should include the following drawings where applicable:
 - (i) Clearing and grubbing plan;
 - (ii) Interim grading plan; and
 - (iii) Final grading plan.
- (q) 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, shall be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan.
- (r) Specific details for the construction of stabilized construction entrance/exits, concrete washouts, and sediment basins for controlling erosion; road access points; eliminating soil, sediment, and debris on streets and public ways. Soil, sediment, and debris brought onto streets and public ways must be removed by the end of the work day to the satisfaction of the City Administrator or designee. Failure to remove the sediment, soil or debris shall be deemed a violation of this Ordinance.
- (s) Construction site operators shall control waste such as discarded building materials, concrete truck washout, petroleum products and petroleum related products, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality. When the material is erodible, such as soil, the site must be treated as a construction site. Specific details for construction waste management shall be provided in the SWPPP.

- (t) A listing of any legally protected state or federally listed threatened or endangered species and/or critical habitat (if applicable) located in the area of land disturbing activities, and a description of the measures that will be used to protect them during and after grading and construction. United States Fish and Wildlife approval is required for all protection measures.
- (u) The approved plan shall be amended if the proposed site conditions change after plan approval is obtained as required by Section 3 of this ordinance, or if it is determined by the City Administrator or designee during the course of grading or construction that the approved plan is inadequate.
- (v) The approved stormwater management plans, erosion prevention and sediment control plans, and stormwater pollution prevention plans shall be adhered to during land disturbance, grading and construction activities. Under no circumstance is the owner or operator of land disturbance activities, or any person(s) acting on the owner's behalf, allowed to deviate from the approved plan without prior approval of a plan amendment by the City Administrator or designee.
- (w) Other Items Needing Control
 - (i) No solid materials, including building materials, shall be placed in waters of the state, except as authorized by a section 404 permit and/ or ARAP permit.
 - (ii) For installation of any waste disposal systems on site, sanitary sewer or septic system, the EPSCP and SWPPP shall identify these systems and provide for the necessary erosion prevention and sediment controls. Permittees must also comply with applicable state and/ or local waste disposal, sanitary sewer and/or septic system regulations for such systems to the extent these are located within the permitted area.
 - (iii) The SWPPP shall include a description of construction and waste materials expected to be stored on site. The SWPPP shall also include a description of controls used to reduce pollutants from materials stored on site, including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response.
 - (iv) A description of stormwater sources from areas other than construction and a description of controls and measures that will be implemented at those sites.
 - (v) A description of and an implementation plan for measures necessary to prevent a "taking" of legally protected state or federal listed threatened or endangered aquatic fauna and/ or critical habitat (if applicable).

(7) General criteria for erosion and sediment controls.

- (a) Erosion and sediment controls must be properly selected and installed in accordance with good engineering practices before land disturbance, development or earth moving activities begin. Effective erosion prevention and sediment controls should be designed, installed and maintained to minimize the discharge of pollutants. At a minimum, such controls must be designed, installed and maintained to:**
 - (i) Control stormwater volume and velocity within the site to minimize soil erosion;**
 - (ii) Control stormwater discharges, including both peak flow rates and total stormwater volume, to minimize erosion at outlets and to minimize downstream channel stream bank erosion;**
 - (iii) Minimize the amount of soil exposed during construction activity;**
 - (iv) Minimize the disturbance of steep slopes;**
 - (v) Eliminate (or minimize if complete elimination is not possible) sediment discharges from the site. The design, installation and maintenance of erosion prevention and sediment controls must address factors such as the design storm and soils characteristics, including the range of soil particle sizes expected to be present on the site;**
 - (vi) Provide and maintain natural buffers around surface waters, direct stormwater to vegetated areas to increase sediment removal and maximize stormwater infiltration, unless infeasible; and**
 - (vii) Minimize soil compaction and, unless infeasible, preserve topsoil.**
- (b) Temporary measures may be removed at the beginning of the day but must be replaced at the end of the work day.**
- (c) Construction shall be sequenced and phased on all projects regardless of size as a major practice to minimize exposure of bare soil and limit sediment discharges. Construction shall be phased to keep the total disturbed area less than 50 acres at any one time.**
- (d) Pre-construction vegetative ground cover shall not be disturbed more than the time allowed under State of Tennessee's General NPDES Permit for Discharges of Stormwater Associated with Construction Activity, as amended, current edition,**

prior to land disturbance, grading or earth moving unless the area is seeded or mulched or other temporary cover is installed. Erosion prevention and sediment control measures must be in place and functional before land disturbance activities begin, and must be constructed and maintained throughout the construction period.

- (e) A temporary or permanent sediment basin must be installed for areas required by the State of Tennessee's General NPDES Permit for Discharges of Stormwater Associated with Construction Activity, as amended, current edition.
 - (f) Soil stabilization measures shall be initiated on any portion of a site where construction activity has temporarily or permanently ceased. The timeframe for initiation of these measures shall be within the time allowed by the State of Tennessee's General NPDES Permit for Discharges of Stormwater Associated with Construction Activity, as amended, most current edition. Where precluded by snow cover or frozen ground conditions stabilization measures shall be initiated as soon as possible. Stabilization measures do not have to be initiated where disturbing activities will resume within the time allowed.
 - (g) Temporary or permanent soil stabilization shall be accomplished within time allowed by the State of Tennessee's General NPDES Permit for Discharges of Stormwater Associated with Construction Activity, as amended, current edition after final grading or other earth work.
 - (h) Public roads should be thoroughly cleaned of any sediment transported off the site by the end of each day or more often if deemed necessary by City Administrator or designee or Staff.
 - (i) Operators of construction sites must control waste such as litter, construction debris, chemicals, concrete truck washout and sanitary waste from being a source of stormwater pollution.
 - (j) After use, silt fences should be removed and disturbed areas stabilized.
- (8) Disclaimer of liability. The submission of plans under the provisions herein, the compliance with the provisions of these regulations, and/ or the satisfaction of any requirements or any approvals of the Stormwater Program shall not relieve any person from responsibility for damages to any person or property otherwise imposed by law; nor shall the foregoing impose any liability upon City of Morristown, its officials, its representatives, and/ or agents for damages to any person or property.

Section 5

Permanent Stormwater Management Design, Maintenance and Inspection

- (1) The requirements provided in this section shall be applicable to all Land Development, including new Development and Redevelopment, subject to a Land Disturbance Permit as described in Sections 3 and 4.
 - (a) Approval of a WQMP from the City will not be required for an entity which holds or will hold an active Tennessee Stormwater Multi-Sector General Permit for Industrial Activities (TMSP) from the Tennessee Department of Environment and Conservation (TDEC), provided the TMSP holder:
 - (i) applies for new or modified TMSP coverage for the area of proposed development or redevelopment.
 - (ii) provides a copy of the “Notice of Intent (NOI) for Storm Water Discharges Associated with Industrial Activity under the TMSP” with which they applied for TMSP coverage to the City.
 - (iii) remains in full compliance with the TMSP. This includes developing and updating as necessary the Stormwater Pollution Prevention Plan (SWPPP) and Spill Prevention Control and Countermeasures (SPCC) Plan (if SPCC is required).
- (2) No land disturbance or building permit shall be issued until a stormwater management plan has been approved by the City Administrator or designee for all Land Development, including new Development and Redevelopment as required by this section.
- (3) MS4 Stormwater design and BMP manuals.
 - (a) The Stormwater Program adopts as its MS4 stormwater design and best management practices (BMP) manual for stormwater management the City of Morristown Stormwater Program Standard Operating Procedures; as amended, most current edition.
 - (b) The Stormwater Program’s Standard Operating Procedures include a list of acceptable measures, controls and practices including the specific design performance criteria and operation and maintenance requirements for each. These include Stormwater Program approved BMPs, SCMs, GIPs and related stormwater design criteria for permanent stormwater management facilities and systems. Design Standards contained in the Stormwater Program Standard Operating Procedures may be adjusted at the discretion of the design engineer in accordance with updated and improved practices, subject to the City Administrator’s or designee’s approval.

- (c) The Stormwater Program Standard Operating Procedures may be updated and expanded from time to time upon the recommendation of the City Administrator or designee, based on improvements in engineering, science, monitoring and local maintenance experience, or changes in federal or state law or regulation. Stormwater facilities that are designed, constructed and maintained in accordance with these criteria will be presumed to meet the minimum water quality performance standards.
- (4) Stormwater Management Plan (SWMP) Requirements A permanent Stormwater Management Plan shall contain all required documents including but not limited to Detention Analysis, Hydrologic Analysis, Hydraulic Analysis, Runoff Reduction Analysis, WQMP, and SPAP. A SWMP that outlines the use of post construction stormwater management facilities, practices, BMP's, GIP's, SCM's and related methods intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels shall be required in the following cases:
 - (a) If the project results in an increase of one half acre or more of impervious area.
 - (b) If the project will result in one half or more acre of land disturbance and meets the following criteria:
 - (i) A Water Quality Buffer Zone is present on or adjacent to the project site or proposed land disturbance activity.
 - (ii) Stormwater discharges from the project site or land disturbance activity will discharge directly to a Water Resource.
 - (c) Projects or developments of less than one acre of land disturbance if the construction activities at the site are part of a larger common plan of development or sale that comprise at least one acre of land disturbance.
 - (d) The City Administrator or designee may also require stormwater management plan for developments, redevelopments, or land uses that discharge to critical areas with sensitive resources, or areas where the City Administrator or designee has determined that additional restrictions are needed to limit adverse impacts of the proposed land disturbance, development or redevelopment on water quality or channel protection.
 - (e) Projects or developments of less than one acre of total land disturbance where the director, or authorized representative, of the Division of Water Pollution Control of the State of Tennessee, Department of Environment and Conservation has determined that:

- (i) the stormwater discharge from a site is causing, contributing to, or is likely to contribute to a violation of a state water quality standard;
 - (ii) the stormwater discharge is, or is likely to be a significant contributor of pollutants to waters of the state, or
 - (iii) changes in state or federal rules require sites of less than one acre that are not part of a larger common plan of development or sale to obtain a stormwater permit.
- (5) Stormwater Management Plans shall be prepared and stamped by an engineer or landscape architect competent in civil and site design. Portions of the stormwater management plan that require hydraulic or hydrologic calculations and design shall be prepared and stamped by an engineer.
- (6) The stormwater management plan shall include sufficient information to allow the Program 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. The City Administrator or designee may require submittal of additional information in the stormwater management plan as needed to effectuate the purposes of this ordinance. The stormwater management plan shall include at a minimum the following:
 - (a) Topographic base map: Topographic base map of the site which extends beyond the limits of the proposed development the minimum distance required to locate, illustrate and indicate the following:
 - (i) Existing surface water drainage including streams, ponds, culverts, ditches, sink holes, wetlands; and the type, size, elevation, etc., of nearest upstream and downstream drainage structures;
 - (ii) Current land use including all existing structures, locations of utilities, roads, and easements;
 - (iii) All other existing significant natural and artificial features; and
 - (iv) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading.
 - (b) Proposed structural and non-structural BMPs.

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

(d) Calculations: Hydrologic and hydraulic design calculations shall be provided for the pre-development and post-development conditions for the design storms as 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 Ordinance and the guidelines of the BMP manual, as provided in the Stormwater Program Standard Operation Procedures. Such calculations shall include but are not limited to:

- (i) A description of the design storm frequency, duration, and intensity where applicable
- (ii) Time of concentration;
- (iii) Soil types, curve numbers and runoff coefficients including assumed soil moisture conditions;
- (iv) Peak runoff rates and total runoff volumes for each watershed or drainage area;
- (v) Infiltration rates, where applicable;
- (vi) Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;
- (vii) Flow velocities;
- (viii) Hydraulic grade line for all components of the stormwater conveyance and stormwater management systems for the 25 year and/or 100 year storm event. Where the hydraulic grade line is not contained within the system a determination of the water surface elevation or ponding elevation shall be provided on the plans and contained within a drainage easement.
- (ix) Data on the increase in rate and volume of runoff for the design storms referenced in the BMP manual; and
- (x) Documentation of sources for all computation methods and field test results.

(e) Soils information: If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be

submitted. The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.

- (f) Endangered Species. The stormwater management plan shall include a listing of any legally protected state or federally listed threatened or endangered species and/or critical habitat (if applicable) located in the area of land disturbing activities, and a description of the measures that will be used to protect them during and after grading and construction. United States Fish and Wildlife approval is required for all protection measures.
- (g) General Performance Criteria for Permanent Stormwater Controls. All land disturbance projects, including new development and redevelopment requiring a SWMP under this section shall address the performance criteria included in the Stormwater Program Standard Operating Procedures.
 - (i) Channel Protection. To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the Stormwater Standard Operating Procedures, as amended, latest edition.
 - (ii) Downstream Impact Analysis. To ensure that stormwater management systems maintain pre-development peak flows throughout the downstream conveyance system, an analysis of the downstream impact of the proposed stormwater management system at the point where the drainage area controlled by the system comprises 10% of the total drainage may be required by the City Administrator or designee.
 - (iii) Stormwater discharges to critical areas with sensitive resources (i.e., endangered species, 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.
 - (iv) Stormwater discharges from hot spots may require the application of specific structural BMPs and pollution prevention practices. In addition, stormwater from a hot spot land use may not be infiltrated unless proper pretreatment has been and approved by the City Administrator or designee.
 - (v) A Special Pollution Abatement Plan (SPAP) shall be required for the land uses identified as pollutant hot spots or as required by the City

Administrator or designee for new developments and redevelopments on the basis of:

- (a) land use or type of business;
 - (b) a history of air or water pollution at a site;
 - (c) a history of air or water pollution by an owner/operator at other sites;
 - (d) the potential to impact environmentally sensitive areas, such as wetlands;
 - (e) at the discretion of the City Administrator or designee as needed to address hotspots or pollutants of concerns on a case-by-case basis.
- (vi) Prior to or during the site design process, applicants for land disturbance permits shall consult with the Program to determine if they are subject to additional stormwater design requirements.
- (vii) Methods and calculations for determining peak flows as found in the Stormwater Standard Operating Procedures, as amended, latest edition shall be used for sizing all stormwater systems and facilities.

(7) Modifications

- (a) The minimum requirements for stormwater management plans may be modified upon written request of the landowner to the City Administrator or designee, provided that at least one (1) of the following conditions applies:
- (i) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this Ordinance.
 - (ii) Alternative minimum requirements for on-site management of stormwater discharges have been established in a water quality management plan that has been approved by the City Administrator or designee.
 - (iii) Provisions are made to manage stormwater 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 that which would be afforded by on-site practices. Further, the facility must be operated and maintained by an entity that is legally obligated to continue the operation and maintenance of the facility in perpetuity with the land on which the facility is constructed.

- (iv) Engineering studies determine that installing the required green infrastructure practices, water quality management facilities or BMPs would actually cause adverse impact to water quality or cause increased channel erosion or downstream flooding.
- (v) Non-structural BMPs will be used on the site that will reduce the generation of stormwater from the site, the size and cost of stormwater storage, and/or the pollutants generated at the site. The City Administrator or designee must approve any such plan and will determine the amount of credit granted for the non-structural BMPs.
 - a. Additional structural BMPs will still be required unless credit for the full stormwater generation is provided.
 - b. If non-structural BMPs are approved, the applicant shall ensure that these practices are documented and remain unaltered by subsequent property owners.
- (vi) Requests to modify the requirements shall be submitted to the City Administrator or designee in writing, along with all necessary plans, specifications, calculations, and other documentation required to demonstrate that one (1) or more of the conditions listed above in is met and that the modification will not result in a reduction of water quality.
 - (a) The City Administrator or designee shall not approve modifications that cause any of the following:
 - (i) The city to be in violation of any state or federal NPDES permit, TMDL, or other applicable water quality regulation;
 - (ii) Degradation of biological functions or habitat;
 - (iii) Accelerated stream bank or streambed erosion or siltation;
 - (iv) Deterioration of existing culverts, bridges, dams, or other structures;
 - (v) Increased threat of flood damage
 - (vi) Increased threat to public health, life or property.

- (b) Any modification of the requirements of this Section requires written approval by the City Administrator or designee.
 - (c) If a modification requested at the time of plan submission is approved, the modifications must be documented as part of the approved Stormwater Management Plan.
 - (d) During construction, an owner may request modifications to the approved Stormwater Management Plan. Until such time as the amended plan is approved by the City Administrator or designee in writing, the land-disturbing activity and associated construction shall not proceed, except in accordance with the Stormwater Management Plan as originally approved.
- (8) As-built plans and plat. All applicants are required to submit actual as-built plans and plat which must be sealed by a surveyor and/or engineer that provide for the following:
 - (a) Stormwater system and appurtenances constructed as part of implementation of the design plans after final construction.
 - (b) Alterations to existing stormwater system and appurtenances as part of implementation of the design plans after final construction is completed.
 - (c) Stormwater Management facilities constructed as part of the implementation of the design plans after final construction.
 - (d) Alterations to existing stormwater management facilities constructed as part of the implementation of the design plans after final construction.
 - (e) Delineation of all proposed stormwater access and drainage easements required for the inspection, maintenance, repair and operation of the stormwater system and stormwater management facilities.
- (9) As-Built Analysis. All applicants are required to submit actual as-built analysis that shows the final design specifications and post development analysis for all stormwater management facilities and which must be sealed by an engineer.
- (10) The as-built plat and plan shall be submitted to the City Administrator or designee for review in a format as specified in the Stormwater Program Standard Operating Procedures.
- (11) A final inspection by the Stormwater Program is required before any performance security or performance bond will be released.

(12) The Stormwater Program shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or performance bond upon completion and approval of the various stages of development.

(13) Certificate of Occupancy shall not be granted until the following is satisfied:

- (a) All stormwater management facilities have been inspected and accepted by the Stormwater Program.
- (b) Corrections to all stormwater management facilities have been made and accepted by the Stormwater Program.
- (c) As-Built plan and plat has been approved by the City Administrator or designee.

(14) Landscaping and Stabilization Requirements.

- (a) Permanent stabilization with perennial vegetation (using native herbaceous and woody plants where practicable) or other permanently stable, non-eroding surface shall replace any temporary measures as soon as practicable. Unpacked gravel containing fines (silt and clay sized particles) or crusher runs will not be considered a non-eroding surface.
- (b) The following criteria shall apply to revegetation efforts:
 - (i) A landscaping plan may be submitted with the 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. This plan should be included in the Stormwater Management Plan.
 - (ii) 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.
 - (iii) 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.
 - (iv) 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.

- (15) Inspection and Maintenance plan. The design and planning of all stormwater management facilities shall include detailed inspection and maintenance procedures to ensure their continued performance to be included in the inspection and maintenance agreement. 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 to perform required maintenance. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for permanent elevation benchmark shall be identified in the plans to assist in the periodic inspection of the facility. These plans must be binding on the current property owners and all subsequent owners of the property and must be properly recorded in the Hamblen County Register of Deeds Office. Recording fees are to be paid by the applicant.
- (16) Maintenance Easements. A maintenance right-of-way or easement, having a minimum width of twenty feet (20') shall be provided to all water quality management facilities, BMPs, GIPs, vegetated buffers, runoff reduction practices and water quality volume reduction areas from a driveway, private road, or other accessible route which is connected to the public right of way to ensure access to the site. These easements must be binding on the current property owners and all subsequent owners of the property and must be properly recorded in the Hamblen County Register of Deeds Office.
- (17) Inspection and Maintenance Agreement. 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 or otherwise be binding on the current property owner and all subsequent property owners. The maintenance agreement shall:
- (a) Assign responsibility for the maintenance and repair of the stormwater facility to the property owners 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 and ensure compliance with the purpose and requirements of this Ordinance.
 - (c) Grant Stormwater Program staff permission to enter the property at reasonable times to inspect the stormwater facility to ensure that it is being properly maintained;
 - (d) Provide for the minimum maintenance and repair needs to include but not limited to; the removal of silt, litter and other debris; the cutting of grass,

grass cuttings and vegetation removal; the replacement of landscape vegetation; inspection, maintenance and repair of inlets drainage pipes and any other stormwater facilities or appurtenances. 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 Stormwater Program Standard Operating Procedures;

- (e) Provide that maintenance needs must be addressed in a timely manner on a schedule to be determined by the Program;
- (f) Provide that if the property is not maintained or repaired within the prescribed schedule, the Program shall perform the maintenance and repair at its expense, and bill two times the Program's cost to the property owner. The maintenance agreement shall also provide that the Program's cost of performing the maintenance shall be a lien against the property.
- (g) These agreements must be binding on the current property owners and all subsequent owners of the property and must be properly recorded in the Hamblen County Register of Deeds Office. Recording fees are to be paid by the applicant.

(18) Inspection of stormwater facilities.

- (a) Periodic inspections of facilities may be performed by the Stormwater Program.
- (b) In order to ensure that all stormwater management facilities and stormwater BMPs are operating correctly and being properly maintained, the Program shall, at a minimum, require owners or operators of stormwater management facilities to:
 - (i) Perform routine inspections to ensure that the BMPs are properly functioning. These inspections shall be conducted on an annual basis, at a minimum. These inspections shall be conducted by a person familiar with control measures implemented at a site. Owners or operators shall maintain documentation of these inspections.
 - (ii) Perform comprehensive inspections of all stormwater management facilities and practices. These inspections shall be conducted once every five (5) years, at a minimum. Such inspections must be conducted by either an engineer or landscape architect holding the required current Tennessee Erosion Prevention and Sediment Control certifications.

(iii) Complete inspection reports for these five year inspections shall include:

- (a) Facility type;
- (b) Inspection date;
- (c) Latitude and longitude, address and/or nearest street address;
- (d) BMP owner information (e.g. name, address, phone number, fax, and email);
- (e) A description of BMP conditions including: vegetation and soils, inlet and outlet channels and structures, embankments, slopes, safety benches, spillways, weirs, and other structures as well as any sediment and debris accumulation;
- (f) Photographic documentation of BMPs;
- (g) Specific maintenance items or violations that need to be corrected by the BMP owner along with deadlines and re-inspection dates.
- (h) Seal of an engineer or landscape architect.

(19) Record Keeping. Owners or operators shall maintain documentation of these inspections. The Program may require submittal of this documentation upon inspection of a facility, investigation of a drainage concern, or upon request.

(20) Records of installation and maintenance facilities. 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 five (5) years. These records shall be made available to the Program during inspection of the facility and at other reasonable times upon request.

(21) Failure to meet maintenance design or maintenance standards. Any discharge that flows from a stormwater facility or system that is not inspected and maintained in accordance with this Ordinance shall be an illicit discharge. Upon the failure of the party responsible for maintenance to meet or maintain design or maintenance standards, the Program shall notify in writing the party responsible for the stormwater facility or system. Upon receipt of such notice, the responsible person shall cause the failure to be corrected within the time set out by the Program in the written notice. In the event correction is not successfully made

within that time, among its other sanctions the Program may cause the corrections to be made. In such event the person responsible for the stormwater facility shall reimburse City of Morristown or the Program for the (2) two times the expense, which expense shall be a lien against the subject real property until paid in full.

- (22) Disclaimer of liability. The submission of plans under the provisions herein, the compliance with the provisions of these regulations, and/ or the satisfaction of any requirements or any approvals of the Stormwater Program shall not relieve any person from responsibility for damages to any person or property otherwise imposed by law; nor shall the foregoing impose any liability upon City of Morristown, its officials, its representatives, and/ or agents for damages to any person or property.

Section 6

Water Quality Buffer Zone Requirements.

(1) Water Quality Buffer Zone General Requirements:

- (a) A Water Quality Buffer Zone shall be applied to all water resources located in, or adjacent to, New Development, or Redevelopment within the jurisdictional limits of the City of Morristown.
- (b) Water Quality Buffer Zones shall be maintained on all properties within the jurisdictional limits of the City of Morristown in a manner that allows for growth of Climax Successional Vegetation, and shall consist of undisturbed vegetation, preferably Native Vegetation, along both sides of a water resource measured linearly perpendicular from Top of Bank along the length of the water resource.
- (c) All water quality buffer zones shall hereafter be inspected and maintained per the approved Inspection and Maintenance Plan and the Inspection and Maintenance Agreement as part of the approved Stormwater Management System, and as approved by the City Administrator or designee.
- (d) All water quality buffer zones shall hereafter be placed into an easement that is recorded with the deed. The easement and any covenants for the permanent maintenance of water quality buffer zone shall be recorded in the land records and shall run with the land and continue in perpetuity.

- (2) Water Quality Buffer Zone Width Requirements. Buffer Zone widths shall be established according to the size of the drainage area of the water resource and the type of water resource. The Water Quality Buffer shall be applied according to the following criteria:

- (a) Water Resources not listed as Impaired or Exceptional Tennessee Waters with drainage areas less than one (1) square mile shall have a buffer width of thirty (30) feet minimum.
 - (b) Water Resources with drainage areas equal to or greater than one (1) square mile and/or are listed as Impaired or Exceptional Tennessee Waters shall have a buffer width of sixty (60) feet minimum.
 - (c) Water Quality Buffer Zone variances and Water Quality Buffer Zone width averaging is prohibited for any portion of developments with slopes greater than 15% located within the required Water Quality Buffer Zone. Where the slope within the Water Quality Buffer zone meets or exceeds 15% the minimum buffer width must be provided as required by this section.
 - (d) A minimum buffer width of 30-feet shall be provided around the perimeter of a wetland, as measured from the outermost edge of the wetland as determined by USACE, NRCS, TDEC, or a Tennessee Qualified Hydrologic Professional (TN-QHP).
 - (e) Water quality buffers are not required for ponds disconnected from other water resources.
 - (f) Water quality buffers are not required for ponds and wetlands designed and constructed for the purposes of stormwater quality treatment and stormwater management.
- (3) Prohibited Uses and Activities. The following land uses and activities are prohibited within the Water Quality Buffer:
- (a) Developments or facilities that include on-site sewage disposal and treatment system drain fields (i.e., septic systems), raised septic systems, subsurface discharges from a wastewater treatment plant, or land application of bio-solids or animal waste;
 - (b) Landfills (demolition landfills, permitted landfills, closed-in-place landfills);
 - (c) Junkyards;
 - (d) Commercial or industrial facilities that store and/or service motor vehicles;
 - (e) Commercial greenhouses or landscape supply facilities;
 - (f) Developments or facilities that have commercial or public pools;
 - (g) Agricultural facilities, farms, feedlots, and confined animal feed operations;

- (h) Animal care facilities, kennels, and commercial/business developments or facilities that provide short-term or long-term care of animals;
 - (i) Activities requiring a land disturbance permit under this ordinance for which a land disturbance permit has not been applied for, obtained and/or approved; and
 - (j) Other land uses and hot spots identified in this ordinance deemed by to have the potential to generate higher than normal pollutant loadings.
- (4) Allowed Uses and Activities. These uses and activities meeting the criteria outlined below may be allowed within the Water Quality Buffer Zone.
- (a) Conservation uses, wildlife sanctuaries, nature preserves, forest preserves, and fishing areas, provided no impervious surfaces are created within the Water Quality Buffer Zone and where an average Water Quality Buffer Zone width of 30 feet along the project area is maintained.
 - (b) Recreational trails, footpaths and greenways that are either unpaved or paved or pervious and intended for non-motorized vehicle use, where an average Water Quality Buffer Zone width of 30 feet along the project area is maintained. Recreational trails, footpaths, and greenways shall be designed to prevent the channelization of stormwater runoff.
 - (c) Parks, provided that no impervious surfaces are created within the Water Quality Buffer Zone and where an average Water Quality Buffer Zone width of 30 feet along the project area is maintained.
 - (d) Education and/or scientific research that does not require any of the prohibited activities or uses identified in this section provided that no impervious surfaces are created and where an average Water Quality Buffer Zone width of 30 feet along the project area is maintained.
 - (e) Stream restoration projects, facilities and activities, with prior approval of the City Administrator or designee and possessing the required permits from applicable federal and state regulatory agencies.
 - (f) Infrastructure features such as roads, bridges, storm drainage, stormwater management facilities that are appropriate for use in a Water Quality Buffer Zones and utilities, provided that they adhere to the following standards:
 - (i) The width of the disturbance for the feature is the minimum required to allow for maintenance and access;

- (ii) The angle of the buffer crossing shall be within 25% of perpendicular to the stream in order to minimize clearing requirements;
 - (iii) The number of buffer crossings is minimized, with no more than one crossing every one-thousand (1,000) linear feet.
 - (iv) Multiple driveway or private roadway crossings of a stream or a wetland within one development shall be prohibited unless approved by the City Administrator or designee.
 - (v) Maintenance to existing stormwater channels.
 - (vi) Stabilization and maintenance practices to existing outfalls or stormwater channels as needed prevent channelization and erosion in the Water Quality Buffer Zone from stormwater runoff.
- (g) Construction of public water system reservoirs.
- (h) Access areas for utilities (e.g., manholes) that are located in the Water Quality Buffer Zone area are allowed. Access areas must be minimized to the maximum extent possible, and shall be located no less than every 300 feet unless warranted by valid safety, access or service issues.
- (i) Landscaping to allow for Climax Successional Vegetation through the removal of Invasive Exotic Plants and the establishment of Native Vegetation, and/or other practices that restore the Ecological Integrity of the Water Quality Buffer Zone. This includes the following activities:
- (i) Removal of individual trees within the Riparian Buffer which are in danger of falling, causing damage to dwellings or other structures, or causing blockage of the water resource. In such instances, the root wad or stump should be left in place, where feasible, to maintain soil stability.
 - (ii) Minor landscaping is allowed within the water quality buffer zone to repair erosion, damaged vegetation or other problems noted. Only native species of vegetation may be used in conjunction with stabilization activities.
 - (iii) The pruning of native vegetation is allowed provided that the health and function of the vegetation is not compromised. However, only the individual removal of under-story nuisance vegetation (i.e. honeysuckle, kudzu, privet) causing minimal soil disturbance is permitted. On land where the removal of such nuisance vegetation would cause a reduction in the amount of stream canopy by fifty percent (50%) or more, re-vegetation with native plants is required to provide fifty percent (50%) of the previous canopy at a minimum. For areas where such

nuisance vegetation removal would cause a reduction in the amount of stream bank vegetation, re-vegetation with native plants is required to meet the previous coverage

- (5) Protection during Construction and Post Construction. All parties having influence over the condition of the water quality buffer zone must be made aware of its presence in order to preserve its integrity. Therefore, the following minimum measures must be taken:
- (a) All water quality buffer zones shall remain protected from land disturbance, vegetation removal, construction of impervious surfaces, and discharges of sediment and other construction-related wastes during development activities.
 - (b) Inspection and maintenance of water quality buffer zones shall be provided for in the approved Inspection and Maintenance plan as provided in the Inspection and Maintenance Agreement as required by Section 5 of this Ordinance.
 - (c) Water quality buffer zones must be shown on all site plans, construction plans, plats, and the recorded final plat. Where a final plat is not part of the development process (e.g commercial development), the water quality buffer zone shall be included on the as-built plat or survey as required by Section 5 of this ordinance. The buffer should be labeled as "Water Quality Buffer Zone" and be dimensioned from the Top of Bank. Notation shall be provided stating: "There shall be no clearing, grading, construction or disturbance of soil and/or native vegetation except as permitted by the City Administrator or designee."
 - (d) Prior to construction, a construction layout survey must be performed which includes staking and marking the water quality buffer zone. A combination of stakes, flagging, and tree protection fencing shall be used to ensure adequate visibility. On the development side of the buffer, provide erosion and sediment control measures such as tree protection fencing along the exterior edge of the water quality buffer zone to prevent further construction impacts.
 - (e) Permanent boundary markers, in the form of signage provided or approved by the City of Morristown's Stormwater Program, shall be installed prior to the completion of the development activities. Signage is to be posted at the coincidence of the water quality buffer zone edge, each lot line, and at a maximum spacing of one hundred fifty feet (150'). The sign shall contain the message, "Water Quality Buffer Zone: This area is reserved for the protection of water quality by limiting pollution, offering shade and bank stabilization, and providing wildlife habitat."
 - (f) Where the standards and management requirements of this ordinance are in conflict with other laws, regulations, and policies regarding streams, steep slopes, erodible soils, wetlands, floodplains, timber harvesting, land disturbance activities or other environmental protective measures, the more restrictive requirements shall apply.

(6) **Variance Procedures.** An alteration to the Water Quality Buffer Zone width and use of the Water Quality Buffer Zone for uses prohibited by this ordinance shall require a variance from the Stormwater Violations Appeals Board (SVAB). For Stormwater Violations Appeals Board see section 7 of this Ordinance.

- (a) Variance applications for alternative Water Quality Buffer Zone width, use and activities shall be submitted to the City Administrator or designee with all applicable fees and information as required by this ordinance.
- (b) Variance applications for alternative Water Quality Buffer Zone width, use and activities will be reviewed by the City Administrator or designee only where the applicant provides reasonable evidence that impacts to the buffer have been avoided or minimized to the fullest extent practicable. Reduction of the Water Quality Buffer Zone width may apply to specific areas of an overall Development, and shall be reviewed on a case-by-case basis as provided by this section. A determination that standards cannot be met shall not be based solely on difficulty or cost associated with implementation.
- (c) The City Administrator or designee shall transmit to the SVAB all papers constituting the record upon which the variance was requested. The SVAB shall fix a reasonable time for the hearing of the variance, give public notice thereof, as well as due notice to the parties in interest and decide the same within a reasonable time. Upon the hearing, any persons or party may appear in person, or by agent, or by attorney.
- (d) Variance applications will be reviewed by the SVAB only where the applicant provides reasonable evidence that impacts to the buffer have been avoided or minimized to the fullest extent practicable and only in the following cases:
 - (i) The project involves the construction or repair of an existing infrastructure project or a structure that, by its nature, must be located within the buffer. Such structures include but are not limited to, dams, public water supply intake structures, detention/retention ponds, waste water discharges, docks including access ways, boat launches including access ways, and stabilization of areas of public access to water; or
 - (ii) the project will result in the restoration or enhancement to improve water quality and/or aquatic habitat quality; or
 - (iii) Buffer intrusion is necessary to provide reasonable access to a property or properties; or
 - (iv) The intrusion is for gravity-flow sewer lines that cannot reasonably be placed outside the buffer, and stream crossings and vegetative disturbance are minimized; or

- (v) Crossing for utility lines, including but not limited to gas, liquid, power, telephone, and other pipelines, provided that the number of crossings and the amount of vegetative disturbance are minimized; or
- (vi) Recreational foot trails, greenways and viewing areas, providing that impacts to the buffer are minimal; or
- (vii) the project involves construction of one (1) single family home for residential use by the owner of the subject property and, at the time of adoption of this rule, there is no opportunity to develop the home under any reasonable design configuration unless a buffer variance is granted. Variances will be considered for such single family homes only if construction is initiated or local government approval is obtained prior to April 1, 2016; or
- (viii) The proposed land disturbing activity requires an Aquatic Resource Alteration Permit (ARAP) or a §401 Water Quality Certification (§401 certification) and the Tennessee Department of Environment and Conservation has approved a mitigation plan to be implemented as a condition of such a permit; or
- (ix) The proposed land disturbing activity within the buffer will require a permit from the United States Army Corps of Engineers under Section 404 of the federal Water Pollution Control Act Amendment of 1972, 33 U.S.C. Section 1344, and the Corps of Engineers has approved a mitigation plan to be implemented as a condition of such a permit; or
- (x) a plan is provided for buffer intrusion that shows that, even with the proposed land disturbing activity within the buffer, the completed project will result in maintained or improved water quality downstream of the project; or
- (xi) the project with a proposed land disturbing activity within the buffer in a stream segment listed as impaired under Section 303(d) of the federal Water Pollution Control Act Amendment of 1972, 33 U.S.C. Section 1313(d) and a plan is provided that shows that the completed project will result in maintained or improved water quality in such listed stream segment and that the project has no adverse impact relative to the pollutants of concern in such stream segment; or
- (xii) Variances may be granted for projects that are already covered by a valid, unexpired land disturbance permit issued prior to April 1, 2016.

- (e) When deemed appropriate the SVAB may consider variances to the Water Quality Buffer Zones width. The SVAB may relax the Water Quality Buffer Zone width to become narrower at some points as provided under this section per the following criteria as follows:
- (i) The 60' Water Quality Buffer Zone can be established on an average width basis as long as the width is not reduced to less than thirty feet (30') feet on both sides of the water resource as measured from Top of Bank.
 - (ii) If the Water Quality Buffer Zone as defined by this ordinance cannot be fully accomplished onsite, the SVAB may apply the criteria provided in this section for the issuance of a variance for alternative buffer widths. However, in no case can the width be reduced to less than fifteen (15) feet on both sides of the water resource as measured from Top of Bank.
 - (iii) The SVAB may offer credit for additional building density elsewhere on the site in compensation for the loss of developable land due to the requirements of this section. This compensation may increase the total number of dwelling units on the site up to the amount permitted under the base zoning.
- (f) When considering a request for a variance, the SVAB may require additional information in order to ensure the proposed buffer variance will not have or cause to have adverse impacts on water quality. Upon receipt of a completed application in accordance with this section the Board shall consider the completed application and the following factors in determining whether to issue a variance:
- (i) Locations of state waters, wetlands, floodplain boundaries and other natural features as determined by field surveys.
 - (ii) Shape, size, topography, slope, soils, vegetation and other physical characteristics of the property.
 - (iii) Location and extent of buffer intrusion.
 - (iv) Whether reasonable alternative project designs, such as the use of retaining walls, are possible which do not require buffer intrusion or which require less buffer intrusion.
 - (v) Whether issuance of the variance, with the required mitigation plan, re-vegetation plan and/or plan for permanent vegetation, is at least as protective of natural resources and the environment (including wildlife habitat).

(vi) The current condition of the existing buffer, to be determined by:

1. The extent to which existing buffer vegetation is disturbed;
2. The hydrologic function of the buffer; and water resource characteristics such as bank vegetative cover, bank stability, prior channel alteration or sediment deposition.
3. The extent to which the encroachment into the buffer may reasonably impair buffer functions.

(vii) The value of mitigation activities conducted pursuant to this section to be determined by development techniques or other measures that will contribute to the maintenance or improvement of water quality, including the use of green infrastructure, low impact designs and integrated best management practices, and reduction in effective impervious surface area.

(viii) The long-term water quality impacts of the proposed variance, as well as the construction impacts

1. The SVAB will assume that the existing water quality conditions are commensurate with an undeveloped forested watershed unless the applicant provides documentation to the contrary. If the applicant chooses to provide baseline documentation, site and/or water resource reach specific water quality, habitat, and/or biological data would be needed to document existing conditions. If additional data are needed to document existing conditions, the applicant may need to submit a monitoring plan and have it approved by the City Administrator or designee prior to collecting any monitoring data. Existing local data may be used, if available and of acceptable quality to the City Administrator or designee.
2. The results of the predicted pollutant loading under pre- and post-development conditions as estimated by models accepted by the City Administrator or designee indicate that existing water quality conditions will be maintained or improved.

(ix) For applications for which a land disturbing activity is proposed within the buffer of a 303(d) listed water resource the results of the model demonstrate that the project has no adverse impact relative to the pollutants of concern in such stream segment.

Illicit Discharges

- (1) **Scope.** This section shall apply to all water generated on developed or undeveloped land entering the Program's MS4.
- (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. Non-stormwater discharges shall include, but shall not be limited to:
 - (a) sanitary wastewater;
 - (b) car wash wastewater;
 - (c) radiator flushing disposal;
 - (d) spills from roadway accidents;
 - (e) carpet cleaning wastewater;
 - (f) effluent from septic tanks;
 - (g) improper oil disposal;
 - (h) laundry wastewater/gray water;
 - (i) improper storage , disposal or discharge of auto and household products.
 - (j) Improper storage, disposal or discharge of solid waste, including discharge from vehicles
 - (k) any discharge that flows from a stormwater facility that is not inspected and maintained in accordance with Section 5 and 14 of this Ordinance and in accordance to the Stormwater Program Standard Operating Procedures, as amended, lasted edition.
 - (l) Discharge related activities that are likely to jeopardize the continued existence of any state or federally listed species or result in the adverse modification or destruction of habitat that is designated as critical under the Endangered Species Act (ESA) or other applicable state law or rule.
 - (m) Discharge or conduct discharge related activities that will cause a prohibited take of federally listed species (as defined under Section 3 of the ESA and 50 CFR §17.3), unless such take is authorized under Sections 7 or 10 of the ESA.

- (n) Discharge or conduct discharge-related activities that will cause a prohibited take of state listed species (as defined in the Tennessee Wildlife Resources Commission Proclamation, Endangered or Threatened Species, and in the Tennessee Wildlife Resources Commission Proclamation, Wildlife in Need of Management), unless such take is authorized under the provisions of Tennessee Code Annotated §70-8-106(e)
 - (o) Discharges that would cause or contribute to an in-stream exceedance of water quality standards.
 - (p) Discharges of any pollutant into any water for which a Total Maximum Daily Load (TMDL) has been approved by EPA, where the TMDL establishes a specific waste load allocation and recommends it be incorporated into an individual NPDES permit.
 - (q) Discharges of materials resulting from a spill, except emergency discharges required to prevent imminent threat to human health or to prevent severe property damage, provided reasonable and prudent measures have been taken to minimize the impact of the discharges.
- (3) Exempt Discharges. 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) Irrigation or lawn watering with potable water;
 - (iii) Diverted stream flows;
 - (iv) Rising ground water;
 - (v) Groundwater infiltration to storm drains, infiltration does not include sanitary sewer inflow;
 - (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 wetland flows;
- (xiii) Firefighting activities;
- (xiv) Discharges specified in writing by the Program as being necessary to protect public health and safety.
- (xv) Dye testing is an allowable discharge if the Program has so specified in writing.
- (xvi) Discharges authorized by the Construction General Permit (CGP), as amended, latest edition.
 - 1. dewatering of work areas of collected stormwater and ground water (filtering or chemical treatment may be necessary prior to discharge);
 - 2. waters used to wash vehicles (of dust and soil, not process materials such as oils, asphalt or concrete) where detergents are not used and detention and/or filtering is provided before the water leaves site;
 - 3. water used to control dust in accordance with CGP, as amended, latest edition.
 - 4. potable water sources including waterline flushing from which chlorine has been removed to the maximum extent practicable;
 - 5. routine external building wash-down that does not use detergents or other chemicals;
 - 6. uncontaminated groundwater or spring water; and
 - 7. foundation or footing drains where flows are not contaminated with pollutants (process materials such as solvents, heavy metals, etc.).

(4) Prohibition of illicit connections. The construction, use, maintenance or continued existence of illicit connections to the municipal separate storm sewer system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

- (5) Prohibition of Illegal Dumping. No person shall dump or otherwise deposit outside an authorized landfill, convenience center or other authorized garbage or trash collection point, any trash or garbage of any kind or description on any private or public property, occupied or unoccupied, inside the Program Service Area. It shall be illegal for any person to intentionally dump or spill liquids or solids that are considered pollutants by the U.S. Environmental Protection Agency (EPA) on the ground where there is potential exposure to rain or stormwater and potential for the pollutant to reach the municipal separate storm sewer system of the city.
- (6) Reduction of stormwater pollutants by the use of best management practices. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMPs necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. Discharges from existing BMPs that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit.
- (7) Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the Program in person or by telephone, fax, or email, no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the Program within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.
- (8) Elimination of illicit connections and illicit discharges.
- (a) Any owner or tenant of a property or premises where an illicit connection and/or discharge is located shall be required, at such person's expense, to eliminate the illicit connection and/or discharge to the municipal separate storm sewer system.
 - (b) Any owner or tenant of a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at such person's expense, the BMPs

necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system.

- (c) Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this ordinance.

(9) Inspections.

- (a) The City Administrator or designee or their representative shall have the right to enter onto private properties for the purposes of investigating a suspected violation of this ordinance, or to remove foreign objects or blockages.
- (b) The owner or person in control of any premises, facility, operation, or residence where an illicit discharge or illicit connection is known or suspected shall allow the City Administrator or designee or their representative to have access to and copy at reasonable times, any applicable state or federal permits and associated records related to the known or suspected discharge or connection, and any reports or records maintained in accordance with this ordinance.
- (c) The failure of an owner or person in control of any premises to allow such inspection by the City Administrator or designee or their representative shall be a violation of this ordinance, which violation may be cause for the issuance of a stop work order, withholding of a certificate of occupancy, and/or civil penalties in addition to enforcement actions for illicit discharge.
- (d) The City Administrator or designee 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 stormwater system and to furnish periodic detailed reports of discharges and/or illicit discharges.

Section 8

Enforcement.

- (1) Enforcement authority. The City shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this Ordinance. The City may take any of the following authorized actions and measures in any order as needed to effectuate the purpose of this ordinance:
- (a) Verbal Warnings – At a minimum, verbal warnings must specify the nature of the violation and required corrective action.
 - (b) Written Notices – Written notices must stipulate the nature of the violation and the required corrective action, with deadlines for taking such action.
 - (c) Citations with Administrative Penalties – The City shall have the authority to assess monetary penalties, which may include civil and administrative penalties.
 - (d) Stop Work Orders – Stop work orders that require construction activities to be halted, except for those activities directed at cleaning up, abating discharge, and installing appropriate control measures.
 - (e) Withholding of Plan Approvals, Certificates of Occupancy, Development Permits or Other Authorizations – Where a facility is in noncompliance, the City's own approval process affecting the facility's ability to discharge to the MS4 can be used to abate the violation.
 - (f) Additional Measures – The City may also use other escalated measures provided under local legal authorities. The City may perform work necessary to improve erosion control measures and collect the funds from the responsible party in an appropriate manner, such as directly billing the responsible party to pay for work and materials.
- (2) Notification of violation:
- (a) Verbal warning. Verbal warning may be given at the discretion of the City Administrator or designee when it appears the condition can be corrected by the violator within a reasonable time, which time shall be approved by the City Administrator or designee.
 - (b) Written notice. Whenever the City finds that any permittee or any other person discharging stormwater has violated or is violating this ordinance or a permit or order issued hereunder, the City 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. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

- (c) Consent orders. The City is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to paragraphs (d) and (e) below.
- (d) Show cause hearing. The City may order any person who violates this ordinance or permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.
- (e) Compliance order. When the City finds that any person has violated or continues to violate this ordinance or a permit or order issued thereunder, the City may issue an order to the violator directing that, following a specific time period, adequate structures or devices be installed and/or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.
- (f) Cease and desist and stop work orders. When the City finds that any person has violated or continues to violate this ordinance or any permit or order issued hereunder, the City may issue a stop work order or an order to cease and desist all such violations and direct those persons in noncompliance to:
 - (i) Comply forthwith; or
 - (ii) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation; including halting operations, except for terminating the discharge and installing appropriate control measures.
- (g) Suspension, revocation or modification of permit. The City may suspend, revoke or modify the permit authorizing land disturbance, land development or any other project of the applicant or other responsible person within the Stormwater Program

Service Area. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated upon such conditions as the City may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

Section 9

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, shall be guilty of a civil offense.

(2) Misdemeanor and Penalties.

1. Misdemeanor-unlawful acts. It shall be unlawful for any person to violate any provision of this ordinance. Any person found to be in violation of the provisions of this ordinance shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00) for each offense. Each day of failure or refusal to comply with any lawful notice to abate violation of this ordinance shall be deemed a separate offense and punishable accordingly.
2. Under the authority provided in Tennessee Code Annotated § 68-221-1106, the City declares that any person violating the provisions of this ordinance may be assessed a civil penalty by the Program 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 may consider:

- (a) The harm done to the public health or the environment;
- (b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
- (c) The economic benefit gained by the violator;
- (d) The amount of effort put forth by the violator to remedy this violation;
- (e) Any unusual or extraordinary enforcement costs incurred by the Program;

- (f) The amount of penalty established by ordinance for specific categories of violations; and
 - (g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.
- (4) Recovery of damages and costs. In addition to the civil penalty in subsection (2) above, the City may recover:
- (a) All damages proximately caused by the violator to the City, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this Ordinance, or any other actual damages caused by the violation.
 - (b) Two times the costs of the City's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this Ordinance.
- (5) Referral to TDEC. Where the City has used enforcement to achieve compliance with this Ordinance, the City may refer the violation to TDEC.
- (6) Other remedies. The 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.
- (7) Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted.

Section 10

Appeals to Enforcement, Violations and Penalties

(1) Enforcement Actions of the City Administrator or designee, except for possible criminal violations which the staff has reported to the appropriate enforcement agency, shall be subject to an appeals process under the initial jurisdiction of the Stormwater Violations Appeals Board. Appealable staff actions specifically include enforcement actions and the assessment of penalties. Written appeals of staff actions must be filed with the City Administrator or designee within thirty (30) days of the actions issuance (TCA § 68-221-1106). Following receipt of a written "Notice of Appeal" from an appellant, the appeals process shall function as follows:

- (a) Administrative Review. An administrative review of all appeals and/or requests for review shall initially be conducted by the City Administrator or designee. The City Administrator or designee shall review the record of the situation and, if the City Administrator or designee is not satisfied that both of the following conditions have been met, the City Administrator or designee shall notify the appellant of the finding and grant the relief or a portion of the relief, as determined by the City Administrator or designee, sought by the appellant:
 - (i) The matter under dispute has been handled correctly by the staff under the applicable rules and procedures of the Stormwater Program.
 - (ii) The matter under dispute has been handled fairly by the staff and the appellant has not, in any way, been treated differently than other dischargers with similar circumstances.
- (b) If the City Administrator or designee determines that both items (i) and (ii) immediately above have been satisfied, the City Administrator or designee shall notify the appellant in writing that no relief can be granted at the staff level and that the appellant is free to pursue the appeal with the Stormwater Violations Appeals Board . Such notification shall include instructions as to the proper procedure for bringing the matter before the Board. Notification shall be made by hand-delivery; verifiable facsimile transmission; e-mail with a verified return request receipt or certified mail, return receipt requested. The City Administrator or designee shall complete the review and issue a decision within 20 calendar days of the receipt of the appeal.

Section 11

Stormwater Violations Appeals Board

(1) Established. There is hereby established a Board of Three (3) members to be known as the "Stormwater Violations Appeals Board."

(2) Composition; terms; filling vacancies.

(a) The Three (3) members of the Board shall initially be appointed by the City Council for staggered terms of one (1) to three (3) years, subject to the approval of the City Council with terms after the initial appointments being for three (3) years. Members shall not serve more than two (2) consecutive three (3) year terms. Members of the Stormwater Violations Appeals Board shall hold no other public office in the City or be employed by the City. The City Council shall appoint one member to represent each of the following:

(i) a representative of a professional consulting field such as an engineer, architect, landscape architect, scientist or educator with technical knowledge of practices regulated by this Ordinance;

(ii) a representative of an industrial or commercial establishment that is regulated by this Ordinance;

(iii) a representative of the building or contracting industry that is regulated by this Ordinance;

(b) Officers. Officers of the Stormwater Violations Appeals Board shall consist of a chairman, vice-chairman, and a secretary. The Board shall elect a Chairman, Vice-Chairman and Secretary from its own membership who shall serve annual terms. The position of the chairman and vice-chairman of the Board shall rotate among the members. After the selection of a new chairman, the former chairman shall serve as vice-chairman for the next succeeding year. Should a member of the Board decline to seek nomination as chairman, the rotation would proceed to the next board member.

(c) Nomination of officers shall be made from the floor. Election of officers shall follow immediately. A candidate receiving a majority vote of the entire membership of the Board shall be declared elected. The officer shall take office immediately and serve for one year (1) year until his successor takes office.

(d) If any member of the Board misses two (2) meetings in succession without an adequate justification, they shall be notified by the Chairman they are being placed on probation. They must attend the next two (2) meetings to be released from probation. If they shall fail to satisfactorily complete a probation or if they are placed

on probation for a second time during a term of office, the Chairman of the Stormwater Violations Appeals Board shall request the City Council to dismiss the Board member and to appoint a new member approved by the City Council. If the Chairman of the Stormwater Violations Appeals Board shall be absent from two (2) meetings in succession without an adequate justification, the Vice-Chairman shall request the City Council to dismiss the Chairman of the Stormwater Violations Appeals Board and select a new Chairman to perform the duties.

(3) General duties of the board.

Appeals rejected by the City Administrator or designee may be brought before the Stormwater Violation Appeals Board if filed in writing with the Stormwater Program within 30 calendar days of the City Administrator's or designee's prior decision (TCA §68-221-1106). Within 30 calendar days of receipt of a notification of an appeal, the Board shall determine if the appeal is to be heard by the Board. Once the appropriate forum for the appeal is decided, a reasonable date and time for hearing of the appeal shall be set. The board will give public notice thereof as well as due notice to the parties in interest and decide the same within a reasonable time. Such date and time shall be within 15 calendar days following the date of the Stormwater Violation Appeals Board initial considerations regarding the appeal.

In addition to any other duty or responsibility otherwise conferred upon the board by this Ordinance, the board shall have the duty and power as follows:

- (a) To hold hearings upon appeals from enforcement orders or enforcement actions of the City Administrator or designee as may be provided under any provision of this ordinance;
- (b) To hold hearings relating to the suspension, revocation, or modification of a land disturbance permit or stormwater discharge permit and issue appropriate orders relating thereto;
- (c) To hold hearings relating to an appeal from a user concerning the accuracy of any penalties imposed upon the user by this ordinance due to violation or other enforcement action;
- (d) To hold such other hearings as may be required in the administration of this ordinance; and
- (e) To make such determinations and issue such orders as may be necessary to effectuate the purposes of this ordinance.

(4) Meetings; quorum.

- (a) The board shall hold meetings as it finds necessary to effectuate the purposes of this section.
 - (b) The order of business at all meetings of the Stormwater Violations Appeals Board shall follow Robert's Rules of Order, more specifically, the provisions that pertain to conducting informal meetings for small boards.
 - (c) Two (2) members of the board shall constitute a quorum, but a lesser number may adjourn a meeting from day to day. Any substantive action of the board shall require two (2) votes, but a majority of the quorum may decide any procedural matter.
 - (d) All meetings of the Stormwater Violations Appeals Board shall be open to the public.
 - (e) The Stormwater Violations Appeals Board may adjourn a hearing or meeting if all applications or appeals cannot be disposed of on the day set, and no further public notice shall be necessary for a continuation of such meeting.
 - (f) Any member of the Board shall be disqualified to act upon a matter before the Stormwater Violation Appeals Board with respect to property in which the member has an interest.
 - (g) The Board shall keep public records of its proceedings.
 - (h) The chairman and secretary shall sign all approved minutes and at the end of the year shall certify that the minutes of the preceding year are a true and correct copy.
- (5) Order of Business. The order of business for a meeting of the Stormwater Violation Appeals Board shall be:
- (a) Call to Order
 - (b) Determination of Quorum
 - (c) Approval of minutes at previous meeting
 - (d) Hearing of cases on the agenda in order of agenda
 - 1. Consideration of cases
 - 2. Motions shall be stated by the chairman or his designee before a vote is taken. The names of persons making and seconding motions shall be recorded.
 - 3. Continued until all cases are heard or until a determination made that all cases cannot be disposed of on the set date.

(e) Other business

(f) Adjournment

(6) Hearing procedure; judicial review.

(a) When to be held. The stormwater violation appeals board shall schedule an adjudicatory hearing to resolve disputed questions of fact and law whenever provided by any provision of this Ordinance at the call of the Chairman. Such date and time shall be within 15 calendar days following the date of the Stormwater Violation Appeals Board initial considerations regarding the appeal.

(b) All meetings of the Stormwater Violations Appeals board shall be open to the public.

(c) Record of hearing. - At any such hearing, all testimony presented shall be under oath or upon solemn affirmation in lieu of oath. The board shall make a record of such hearing, but the same need not be a verbatim record. Any party coming before the board shall have the right to have such hearing recorded steno graphically, but in such event the record need not be transcribed unless any party seeks judicial review of the order or action of the board by common law writ of certiorari, and in such event the parties seeking such judicial review shall pay for the transcription and provide the board with the original of the transcript so that it may be certified to the court.

(d) Subpoenas. - The chairman may issue subpoenas requiring attendance and testimony of witnesses or the production of evidence, or both. A request for issuance of a subpoena shall be made by lodging with the chairman at least ten (10) days prior to the scheduled hearing date a written request for a subpoena setting forth the name and address of the party to be subpoenaed and identifying any evidence to be produced. Upon endorsement of a subpoena by the chairman, the same shall be delivered to the chief of police for service by any police officer of the city, if the witness resides within the city. If the witness does not reside in the city, the chairman shall issue a written request that the witness attend the hearing.

(e) Depositions. - Upon agreement of all parties, the testimony of any person may be taken by deposition or written interrogatories. Unless otherwise agreed, the deposition shall be taken in a manner consistent with Rules 26 through 33 of the Tennessee Rules of Civil Procedure, with the chairman to rule on such matters as would require a ruling by the court under such rules.

(f) Hearing procedure. - The party at such hearing bearing the affirmative burden of proof shall first call his witnesses, to be followed by witnesses called by other parties, to be followed by any witnesses which the board may desire to call. Rebuttal witnesses shall be called in the same order. The chairman shall rule on any

evidentiary questions arising during such hearing and shall make such other rulings as may be necessary or advisable to facilitate an orderly hearing subject to approval of the board. The board, the City Administrator or designee, or his representative, and all parties shall have the right to examine any witness. The board shall not be bound by or limited to rules of evidence applicable to legal proceedings.

(g) Appeal to board of City Administrator's or designee's order. Any person aggrieved by any order or determination of the City Administrator or designee may appeal said order or determination to the board and have such order or determination reviewed by the board under the provisions of this section. A written notice of appeal shall be filed with the City Administrator or designee and with the chairman, and such notice shall set forth with particularity the action or inaction the City Administrator or designee complained of and the relief sought by the person filing said appeal. A special meeting of the board may be called by the chairman upon the filing of such appeal, and the board may in its discretion suspend the operation of the order or determination of the City Administrator or designee appeals from until such time as the board has acted upon the appeal.

(h) Absence of chairman. - The vice-chairman or the chairman pro tem shall possess all the authority delegated to the chairman by this section when acting in his absence or in his stead.

(7) Review of board's decision. Any person aggrieved by any final order of determination of the board hereunder shall have judicial review by common law writ of certiorari.

Section 12

Stormwater Service Utility Fees

(1) Purpose. The purpose of this section is to establish a stormwater utility and associated stormwater utility service charge within the City of Morristown pursuant to the authority granted by Tennessee Code Annotated, § 68-221-11 and for the purpose of providing dedicated funds for stormwater management operations and facilities within the City of Morristown.

(2) Objectives. The objectives of this section include but are not limited to the following:

(a) To establish an equitable approach to fund the City of Morristown's stormwater management services and facilities;

(b) To establish impervious area, which is the most important factor influencing stormwater service requirements and costs posed by properties located throughout the City of Morristown, as the parameter utilized for calculating stormwater service charges;

- (c) To adopt a schedule of service charges upon properties that is related to the burden of stormwater quantity and quality control service requirements and costs posed by properties throughout the City of Morristown.
 - (d) To establish the rules and process for appeals of stormwater service charges.
- (3) Effective date. Stormwater service charges are effective and were employed as of March 18, 2008.
- (4) Exemptions. Except as provided in this section, no public or private property shall be exempt from stormwater utility service charges or receive a credit or offset against such service charges. No exemption, credit, offset, or other reduction in stormwater service charges shall be granted based on the age, tax, or economic status, race, or religion of the customer, or other condition unrelated to the stormwater utility's cost of providing stormwater management services and facilities.
- (5) Exemptions allowed. The following exemptions from stormwater service charges shall be allowed:
 - (a) Undeveloped land as defined in this Ordinance;
 - (b) Railroad tracks; however, railroad stations, maintenance buildings, or other developed land used for railroad purposes shall not be exempt from stormwater service charges;
 - (c) Improved public road rights-of-way that have been conveyed to and accepted for maintenance by the City of Morristown or the State of Tennessee Department of Transportation and are available for use in common for vehicular transportation by the general public;
 - (d) Properties that do not discharge stormwater runoff at any time into or through the stormwater management system, as defined in this Ordinance.
- (6) Unit of Measure. The ERU shall be used as the basis for determining stormwater service charges to single family residential detached dwelling unit properties or classes of single family residential detached dwelling unit properties and all other developed land. Stormwater service charges for multiple dwelling unit properties shall be calculated in the same way as other developed lands.
- (7) Monthly billing and collection. The Witt Utility District, Russellville-Whitesburg Utility District and Alpha-Talbott Utility District, which are henceforth referred to as "other authorized agencies," and the Morristown Utilities Commission shall bill and collect stormwater service charges for the city from all customers who own or rent properties that are subject to the

stormwater utility service charges imposed by this Ordinance. The Morristown Utilities Commission and other authorized agencies shall include such stormwater utility service charges as a designated item on its utility service bills each month, following the same procedure it uses in billing and collecting utility charges.

- (8) Discontinuance of water service for failure to pay stormwater service charges. The Morristown Utilities Commission and other authorized agencies may discontinue water service to any customer for failure to pay the stormwater utility service charge, and shall not connect or re-establish water service for a customer who owes a delinquent stormwater utility service charge until such stormwater utility service charge has been paid.
- (9) Adjustments in charges. The City Administrator or designee shall make adjustments in the stormwater utility service charge for over or under calculation of impervious surfaces.
- (10) City to keep stormwater utility service charges in separate accounts. The City Administrator or designee shall keep the funds received from stormwater utility service charges in a separate enterprise account entitled "stormwater fund."
- (11) Appeals. Any stormwater utility service customer who believes the provisions of this Ordinance have been applied in error may appeal the application or amount of the stormwater utility service charge in the following manner:
 - (a) An appeal must be filed in writing with the City Administrator or designee.
 - (b) Using the information provided by the appellant, the City Administrator or designee or his/her designee shall conduct a technical review of the conditions on the property and respond to the appeal in writing within thirty (30) days.
 - (c) The City Administrator or designee upon review of information provided by the appellant may require the appeal to include a survey or site plan prepared by a surveyor or engineer containing information on the total property area, the impervious surface area (in square feet), and any other features or conditions which influence the hydrologic response of the property to rainfall events.
 - (d) In response to an appeal, the City Administrator or designee may adjust the stormwater service charge applicable to a property in conformance with the general purpose and intent of this Ordinance and shall inform the appellant of such adjustment in writing.
- (12) A decision of the City Administrator or designee which is adverse to an appellant may be further appealed to the City within thirty (30) days from the date of the adverse decision. Notice of the appeal shall be delivered to the city administrator by the appellant, stating the grounds for the further appeal. The city administrator shall issue a decision on the appeal within thirty (30) days. All decisions of the city administrator shall be final and shall be served

on the customer personally or by registered or certified mail. Service shall be based upon the service charge billing address of the customer.

- (13) The appeal process contained in this subsection shall not prevent an appellant from seeking relief in the approved manner and form from a court of competent jurisdiction.

Section 13

Program Fees

- (1) **Special Program Fees.** The City shall be allowed to charge special Program fees to individuals and organizations for specific activities which require input from the Program Staff. Because of the service-related nature of the special Program fees, they shall be applicable to all stormwater customers located within the Program Service Area, including customers who may be exempt from the Stormwater Utility Fee. Special Program fees shall comply with the following provisions:

(a) **Types:** Special Program fees may be charged for the following types of services:

- (i) **Development Plans Review:** Any person or organization with planned construction that will disturb 2,400 square feet or more shall submit development plans to the Program Staff which describe in detail the planned construction's conformance with City requirements for stormwater pollution control at the site of the development. "Disturb" as used in this section shall identify any activity which covers, removes, or otherwise reduces the area of existing vegetation at a site, even on a temporary basis.
- (ii) **Erosion Control Plans Review:** Any person or organization with planned construction that will disturb 2,400 square feet or more shall submit erosion control plans to the Program Staff which describe in detail the planned construction's conformance with City requirements for erosion control at construction sites. It is understood that the Erosion Control Plans Review fee shall include on-site inspections by qualified member(s) of the Program Staff of the installed erosion control measures as defined by the approved erosion control plans.
- (iii) **Erosion Control Non-Compliance Re-Inspection:** Should any on-site inspection of installed erosion control measures reveal that the measures have been improperly installed, prematurely removed, damaged, or have otherwise failed and that such deficiency does not pose an imminent threat to the public safety or welfare or the downstream water environment, the City shall inform the responsible party of the deficiency, the responsible party's obligation to bring the installation into compliance with the approved plan, and the assessment of a re-inspection fee: The re-inspection fee shall reimburse the City for the costs

associated with an inspector's returning to a specific site out of the normal inspection sequence.

- (iv) Stormwater Plans Review: Any person or organization with planned construction shall submit stormwater management plans and or as-built plans to the Program Staff which describe in detail the planned construction's conformance with City requirements for post construction stormwater management design, operation and maintenance. It is understood that the Stormwater Plans Review fee shall include on-site inspections by qualified member(s) of the Program Staff of the installed post construction stormwater management system, facility or BMP.
- (v) Other: The City Administrator or designee may from time to time identify other specific activities which warrant a Special Program Fee. No such fee shall be enacted unless it is endorsed by and approved by the Morristown City Council.

Section 14

Existing Locations and Developments

- (1) Requirements for all existing locations and developments. Requirements applying to all locations and developments at which land disturbing activities occurred prior to the enactment of this Ordinance must meet the requirements in place at the time the developer's concept plan was received by the City of Morristown.
- (2) Inspection of existing systems and facilities. The City may, to the extent authorized by state and federal law, establish inspection programs to verify that all permanent stormwater systems, devices or facilities, including those built both before and after the adoption of this Ordinance, are functioning within design limits as established within the Stormwater Program Standard Operating Procedures. These inspection programs may include, but are 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 sources of increased sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with increased discharges of contaminants or pollutants or with discharges of a type more likely than the typical discharge to cause violations of the municipality's NPDES stormwater permit; 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, ground water, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.
- (3) Failure to meet maintenance design or maintenance standards. Any discharge that flows from a stormwater facility or system that is not inspected and maintained in accordance with

this Ordinance shall be an illicit discharge. Upon the failure of the party responsible for maintenance to meet or maintain design or maintenance standards, the City shall notify in writing the party responsible for the stormwater facility or system. Upon receipt of such notice, the responsible person shall cause the failure to be corrected within the time set out by the City in the written notice. In the event correction is not successfully made within that time, among its other sanctions the City may cause the corrections to be made. In such event the person responsible for the stormwater facility shall reimburse City of Morristown for the (2) two times the expense, which expense shall be a lien against the subject real property until paid in full.

(4) Requirements for existing problem locations.

- (a) The City shall provide written notification to the owners of existing locations and developments of specific drainage, erosion, or sediment problems originating from such locations and developments and the specific actions required to correct those problems.
- (b) The notice shall also specify a reasonable time for compliance.
- (c) Should the property owner fail to act within the time established for compliance, the City may act directly to implement the required corrective actions.
- (d) The cost of any action to the City incurred under this section shall be charged to the responsible party. In addition, the responsible party shall be responsible for the proper maintenance and operation of any device, facility or facilities installed as a part of the corrective action. Failure of the responsible party to properly install, operate, and/or maintain the device, facility or facilities installed as part of the corrective action may subject the responsible party to a civil penalty from the City as described in this ordinance.

(5) Corrections of problems subject to appeal. Corrective measures imposed by the City under this section are subject to appeal process as provided under Sections 10 and 11 of this Ordinance.

PASSED ON FIRST READING THIS THE 16TH OF FEBRUARY, 2016.

MAYOR

ATTEST:

CITY ADMINISTRATOR

PASSED ON SECOND AND FINAL READING THIS THE 1ST OF MARCH, 2016.

MAYOR

ATTEST:

CITY ADMINISTRATOR



Department of Community Development
100 West 1st North Street
Morristown, TN 37814
(423) 585-4620

TO: City of Morristown City Council
FROM: Ralph 'Buddy' Fielder, Assistant City Administrator
DATE: February 16th, 2016
SUBJECT: Amendments to Zoning Ordinance
Chapter 22 Municipal Floodplain Zoning Ordinance

Due to changes enacted by the Tennessee Department of Environment and Conservation to Municipal Separate Storm Sewer System regulations (MS4) and its permitting, the City of Morristown will be revising its own stormwater regulations. As this type of infrastructure plays an important role in development, revisions are needed for the City's Zoning Ordinance and Subdivision Regulations to ensure all documents coincide one with the other.

Fortunately, the revisions needed within our Zoning text to comply with these new Stormwater standards are minimal and, simply put, serve only to clarify existing verbiage. No additional restrictions or regulations are included.

Listed below are the affected passages: (areas highlighted in yellow signify additions made; wording which shows a 'strike through' will be deleted)

ARTICLE II. DEFINITIONS

"Watercourse" means any watercourse that has been previously mapped and shown on the community FIRM, or any watercourse for which a Conditional Letter of Map Revision or Letter of Map Revision for a specific alteration, relocation, or correction has previously been obtained."

ARTICLE IV. ADMINISTRATION

Section A. Designation of Ordinance Administrator

The ~~City Engineer~~ City Administrator or his/her designee is hereby appointed as the Administrator to implement the provisions of this Ordinance.

Section C. Duties and Responsibilities of the Administrator

3. Notify ~~adjacent~~ affected adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.

ARTICLE V. PROVISIONS FOR FLOOD HAZARD REDUCTIONS

Section C. Standards for Special Flood Hazard Areas with Established Base Flood Elevations and With Floodways Designated

2. Notwithstanding any other provisions of Article V Section C.1., the community may permit encroachments in the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision, fulfills the requirements for such revisions as established under the provisions of the National Flood Insurance Program and stated in 44 CFR Part 65.12, and receives the approval of the Federal Insurance Administrator. The cost of study, engineering, maps, completion of application, design, or any other cost associated with the encroachment and/or revision is the responsibility of the developer, property owner, or other party initiating the work. Unless otherwise stated in the ordinance the City Administrator or his/her designee shall approve any encroachment and/or revision.

The Morristown Regional Planning Commission voted unanimously at their February 9th 2016 meeting to recommend to City Council that all changes as described above be approved.

CITY COUNCIL CHANGES:

- 1.) Approve the amendments to Chapter 22 of the Zoning Ordinance as submitted;
- 2.) Approve the amendments to Chapter 22 of the Zoning Ordinance with changes;
- 3.) Deny the amendments to Chapter 22 of the Zoning Ordinance;
- 4.) Table the request to amend Chapter 22 of the Zoning Ordinance.

ORDINANCE NO. _____
AN ORDINANCE TO AMEND THE CURRENT CITY OF MORRISTOWN TENNESSEE MUNICIPAL
CODE, TITLE 14, ZONING AND LAND USE CONTROL, CHAPTER 22, MUNICIPAL FLOODPLAIN
ZONING ORDINANCE.

Chapter 22
Municipal Floodplain Zoning Ordinance
(_____-03-01-2016)

ARTICLE I. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

Section A. Statutory Authorization

The Legislature of the State of Tennessee has in Sections 13-7-201 through 13-7-210, Tennessee Code Annotated delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Morristown, Tennessee, Mayor and City Council, do ordain as follows:

Section B. Findings of Fact

1. The City of Morristown Tennessee, Mayor and its Legislative Body wishes to maintain eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in Title 44 of the Code of Federal Regulations (CFR), Ch. 1, Section 60.3.
2. Areas of the City of Morristown, Tennessee are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
3. Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

Section C. Statement of Purpose

It is the purpose of this Ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. This Ordinance is designed to:

1. Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;
2. Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
4. Control filling, grading, dredging and other development which may increase flood damage or erosion;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

Section D. Objectives

The objectives of this Ordinance are:

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1. To protect human life, health, safety and property;
2. To minimize expenditure of public funds for costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodprone areas;
6. To help maintain a stable tax base by providing for the sound use and development of floodprone areas to minimize blight in flood areas;
7. To ensure that potential homebuyers are notified that property is in a floodprone area;
8. To maintain eligibility for participation in the NFIP.

ARTICLE II. DEFINITIONS

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application given its stated purpose and objectives.

"Accessory Structure" means a subordinate structure to the principal structure on the same lot and, for the purpose of this Ordinance, shall conform to the following:

1. Accessory structures shall only be used for parking of vehicles and storage.
2. Accessory structures shall be designed to have low flood damage potential.
3. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
4. Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.
5. Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

"Addition (to an existing building)" means any walled and roofed expansion to the perimeter or height of a building.

"Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this Ordinance or a request for a variance.

"Area of Shallow Flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of Special Flood-related Erosion Hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

"Area of Special Flood Hazard" see "Special Flood Hazard Area".

"Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one (1)-percent annual chance flood.

"Basement" means any portion of a building having its floor subgrade (below ground level) on all sides.

"Building" see **"Structure"**.

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.

"Elevated Building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

"Emergency Flood Insurance Program" or "Emergency Program" means the program as implemented on an emergency basis in accordance with Section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

"Erosion" means the process of the gradual wearing away of land masses. This peril is not "per se" covered under the Program.

"Exception" means a waiver from the provisions of this Ordinance which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this Ordinance.

"Existing Construction" means any structure for which the "start of construction" commenced before the effective date of the initial floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

"Existing Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

"Existing Structures" see **"Existing Construction"**.

"Expansion to an Existing Manufactured Home Park or Subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Elevation Determination" means a determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

"Flood Elevation Study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by FEMA, where the boundaries of areas of special flood hazard have been designated as Zone A.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by FEMA, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

"Flood Insurance Study" is the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

"Floodplain" or **"Floodprone Area"** means any land area susceptible to being inundated by water from any source (see definition of "flooding").

"Floodplain Management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

"Flood Protection System" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities and structures and their contents.

"Flood-related Erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

"Flood-related Erosion Area" or **"Flood-related Erosion Prone Area"** means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

"Flood-related Erosion Area Management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

"Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed.

"Functionally Dependent Use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

"Highest Adjacent Grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

"Historic Structure" means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on the City of Morristown Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
 - a. By the approved Tennessee program as determined by the Secretary of the Interior or
 - b. Directly by the Secretary of the Interior.

"Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

"Levee System" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

"Lowest Floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "Manufactured Home" does not include a "Recreational Vehicle".

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by FEMA.

"Mean Sea Level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this Ordinance, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

"National Geodetic Vertical Datum (NGVD)" means, as corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

"New Construction" means any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management Ordinance and includes any subsequent improvements to such structure.

"New Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this ordinance or the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

"North American Vertical Datum (NAVD)" means, as corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain.

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"100-year Flood" see **"Base Flood"**.

"Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

"Reasonably Safe from Flooding" means base flood waters will not inundate the land or damage structures to be removed from the Special Flood Hazard Area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

"Recreational Vehicle" means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck;
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"Special Flood Hazard Area" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

"Special Hazard Area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

"Start of Construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"State Coordinating Agency" the Tennessee Department of Economic and Community Development's, Local Planning Assistance Office, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the State.

"Structure" for purposes of this Ordinance, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

"Substantial Improvement" means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The market value of the

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structure should be (1) the appraised value of the structure prior to the start of the initial improvement, or (2) in the case of substantial damage, the value of the structure prior to the damage occurring.

The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project or; (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"Substantially Improved Existing Manufactured Home Parks or Subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

"Variance" is a grant of relief from the requirements of this Ordinance.

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this Ordinance is presumed to be in violation until such time as that documentation is provided.

"Watercourse" means any watercourse that has been previously mapped and shown on the community FIRM, or any watercourse for which a Conditional Letter of Map Revision or Letter of Map Revision for a specific alteration, relocation, or correction has previously been obtained.

"Water Surface Elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

ARTICLE III. GENERAL PROVISIONS

Section A. Application

This Ordinance shall apply to all areas within the incorporated area of the City of Morristown, Tennessee.

Section B. Basis for Establishing the Areas of Special Flood Hazard

The Areas of Special Flood Hazard identified on the City of Morristown, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Number(s) 47063C0050E, 47063C0075E, 47063C0110E, 47063C0120E, 47063C0127E, 47063C0129E, 47063C0130E, 47063C0131E, 47063C0132E, 47063C0133E, 47063C0134E, 47063C0140E, 47063C0145E, 47063C0155E, dated July 3, 2006, and Community Panel Number(s) 47089C0070D1, 47089C0090D, and 47089C0093D, dated December 16, 2008, along with all supporting technical data, are adopted by reference and declared to be a part of this Ordinance.

Section C. Requirement for Development Permit

A development permit shall be required in conformity with this Ordinance prior to the commencement of any development activities.

Section D. Compliance

No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations.

Section E. Abrogation and Greater Restrictions

This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this Ordinance conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

Section F. Interpretation

In the interpretation and application of this Ordinance, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body and; (3) deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

Section G. Warning and Disclaimer of Liability

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Morristown, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

Section H. Penalties for Violation

Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Morristown, Tennessee from taking such other lawful actions to prevent or remedy any violation.

ARTICLE IV. ADMINISTRATION

Section A. Designation of Ordinance Administrator

The City Administrator or his/her designee is hereby appointed as the Administrator to implement the provisions of this Ordinance.

Section B. Permit Procedures

Application for a development permit shall be made to the Administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

1. Application stage

- a. Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where Base Flood Elevations are available, or to certain height above the highest adjacent grade when applicable under this Ordinance.
- b. Elevation in relation to mean sea level to which any non-residential building will be floodproofed where Base Flood Elevations are available, or to certain height above the highest adjacent grade when applicable under this Ordinance.

- c. A FEMA Floodproofing Certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in Article V, Sections A and B.
- d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

2. Construction Stage

Within AE Zones, where Base Flood Elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The Administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where Base Flood Elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The Administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

For all new construction and substantial improvements, the permit holder shall provide to the Administrator an as-built certification of the lowest floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

Section C. Duties and Responsibilities of the Administrator

Duties of the Administrator shall include, but not be limited to, the following:

1. Review all development permits to assure that the permit requirements of this Ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.
2. Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
3. Notify affected adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.
4. For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRM's through the Letter of Map Revision process.
5. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.
6. Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with Article IV, Section B.
7. Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with Article IV, Section B.

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8. When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with Article IV, Section B.
9. Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.
10. When Base Flood Elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any Base Flood Elevation and floodway data available from a Federal, State, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the City of Morristown, Tennessee FIRM meet the requirements of this Ordinance.
11. Maintain all records pertaining to the provisions of this Ordinance in the office of the Administrator and shall be open for public inspection. Permits issued under the provisions of this Ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files.

ARTICLE V. PROVISIONS FOR FLOOD HAZARD REDUCTION

Section A. General Standards

In all areas of special flood hazard, the following provisions are required:

1. New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure;
2. Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces.
3. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
4. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;
5. All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
9. Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this Ordinance, shall meet the requirements of "new construction" as contained in this Ordinance;

10. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this Ordinance, shall be undertaken only if said non-conformity is not further extended or replaced;
11. All new construction and substantial improvement proposals shall provide copies of all necessary Federal and State permits, including Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334;
12. All subdivision proposals and other proposed new development proposals shall meet the standards of Article V, Section B;
13. When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction;
14. When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple Base Flood Elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest Base Flood Elevation.

Section B. Specific Standards

In all Areas of Special Flood Hazard, the following provisions, in addition to those set forth in Article V, Section A, are required:

1. Residential Structures

In AE Zones where Base Flood Elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one (1) foot above the Base Flood Elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures".

Within approximate A Zones where Base Flood Elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three (3) feet above the highest adjacent grade (as defined in Article II). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures"

2. Non-Residential Structures

In AE Zones, where Base Flood Elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than one (1) foot above the level of the Base Flood Elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures"

In approximate A Zones, where Base Flood Elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three (3) feet above the highest adjacent grade (as defined in Article II). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures"

Non-Residential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee

registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Administrator as set forth in Article IV, Section B.

3. Enclosures

All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

- a. Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria.
 - 1) Provide a minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
 - 2) The bottom of all openings shall be no higher than one (1) foot above the finished grade;
 - 3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- b. The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.
- c. The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of Article V, Section B.

4. Standards for Manufactured Homes and Recreational Vehicles

- a. All manufactured homes placed, or substantially improved, on: (1) individual lots or parcels, (2) in expansions to existing manufactured home parks or subdivisions, or (3) in new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.
- b. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
 - 1) In AE Zones, with Base Flood Elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one (1) foot above the level of the Base Flood Elevation or
 - 2) In approximate A Zones, without Base Flood Elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three (3) feet in height above the highest adjacent grade (as defined in Article II).
- c. Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of Article V, Sections A and B.
- d. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- e. All recreational vehicles placed in an identified Special Flood Hazard Area must either:
 - 1) Be on the site for fewer than 180 consecutive days;
 - 2) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions), or;
 - 3) The recreational vehicle must meet all the requirements for new construction.

5. Standards for Subdivisions and Other Proposed New Development Proposals

Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

- a. All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.
- b. All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- c. All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- d. In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals Base Flood Elevation data (See Article V, Section E).

Section C. Standards for Special Flood Hazard Areas with Established Base Flood Elevations and With Floodways Designated

Located within the Special Flood Hazard Areas established in Article III, Section B, are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

1. Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the Base Flood Elevation, velocities, or floodway widths during the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide supporting technical data, using the same methodologies as in the effective Flood Insurance Study for the City of Morristown, Tennessee and certification, thereof.
2. Notwithstanding any other provisions of Article V Section C.1., the community may permit encroachments in the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision, fulfills the requirements for such revisions as established under the provisions of the National Flood Insurance Program and stated in 44 CFR Part 65.12, and receives the approval of the Federal Insurance Administrator. The cost of study, engineering, maps, completion of application, design, or any other cost associated with the encroachment and/or revision is the responsibility of the developer, property owner, or other party initiating the work. Unless otherwise stated in the ordinance the City Administrator or his/her designee shall approve any encroachment and/or revision.
- 3.. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Article V, Sections A and B.

Section D. Standards for Areas of Special Flood Hazard Zones AE with Established Base Flood Elevations but Without Floodways Designated

Located within the Special Flood Hazard Areas established in Article III, Section B, where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

1. No encroachments, including fill material, new construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when

combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

2. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Article V, Sections A and B.

Section E. Standards for Streams without Established Base Flood Elevations and Floodways (A Zones)

Located within the Special Flood Hazard Areas established in Article III, Section B, where streams exist, but no base flood data has been provided and where a Floodway has not been delineated, the following provisions shall apply:

1. The Administrator shall obtain, review, and reasonably utilize any Base Flood Elevation and floodway data available from any Federal, State, or other sources, including data developed as a result of these regulations (see 2 below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of Article V, Sections A and B.
2. Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals Base Flood Elevation data.
3. Within approximate A Zones, where Base Flood Elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (as defined in

Article II). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in Article IV, Section B. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of Article V, Section B.

4. Within approximate A Zones, where Base Flood Elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the City of Morristown, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
5. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Article V, Sections A and B. Within approximate A Zones, require that those subsections of Article V Section B dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

Section F. Standards For Areas of Shallow Flooding (AO and AH Zones)

Located within the Special Flood Hazard Areas established in Article III, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in Article V, Sections A and B, apply:

1. All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one (1) foot above as many feet as the

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depth number specified on the FIRM's, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of Article V, Section B.

2. All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one (1) foot above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three (3) feet above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this Ordinance and shall provide such certification to the Administrator as set forth above and as required in accordance with Article IV, Section B.
3. Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

Section G. Standards For Areas Protected by Flood Protection System (A-99 Zones)

Located within the Areas of Special Flood Hazard established in Article III, Section B, are areas of the 100-year floodplain protected by a flood protection system but where Base Flood Elevations have not been determined. Within these areas (A-99 Zones) all provisions of Article IV and Article V shall apply.

Section H. Standards for Unmapped Streams

Located within the City of Morristown, Tennessee, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

1. No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the locality.
2. When a new flood hazard risk zone, and Base Flood Elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with Articles IV and V.

ARTICLE VI. VARIANCE PROCEDURES

Section A. Municipal Board of Zoning Appeals

1. Authority

The City of Morristown, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Ordinance.

2. Procedure

Meetings of the Municipal Board of Zoning Appeals shall be held at such times, as the Board shall determine. All meetings of the Municipal Board of Zoning Appeals shall be open to the public. The Municipal Board of Zoning Appeals shall adopt rules of procedure and shall keep records of applications and actions thereof,

which shall be a public record. Compensation of the members of the Municipal Board of Zoning Appeals shall be set by the Legislative Body.

3. Appeals: How Taken

An appeal to the Municipal Board of Zoning Appeals may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the Administrator based in whole or in part upon the provisions of this Ordinance. Such appeal shall be taken by filing with the Municipal Board of Zoning Appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of **(\$50.00)** dollars for the cost of publishing a notice of such hearings shall be paid by the appellant. The Administrator shall transmit to the Municipal Board of Zoning Appeals all papers constituting the record upon which the appeal action was taken. The Municipal Board of Zoning Appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than **(30)** days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

4. Powers

The Municipal Board of Zoning Appeals shall have the following powers:

a. Administrative Review

To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the Administrator or other administrative official in carrying out or enforcement of any provisions of this Ordinance.

b. Variance Procedures

In the case of a request for a variance the following shall apply:

- 1) The City of Morristown Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Ordinance.
- 2) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this Ordinance to preserve the historic character and design of the structure.
- 3) In passing upon such applications, the Municipal Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, and:
 - a) The danger that materials may be swept onto other property to the injury of others;
 - b) The danger to life and property due to flooding or erosion;
 - c) The susceptibility of the proposed facility and its contents to flood damage;
 - d) The importance of the services provided by the proposed facility to the community;
 - e) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;
 - f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - g) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - h) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - i) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
 - j) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.

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- 4) Upon consideration of the factors listed above, and the purposes of this Ordinance, the Municipal Board of Zoning Appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this Ordinance.
- 5) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

Section B. Conditions for Variances

1. Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in Article VI, Section A.
2. Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or Ordinances.
3. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance (as high as \$25 for \$100) coverage, and that such construction below the Base Flood Elevation increases risks to life and property.

The Administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request.

ARTICLE VII. LEGAL STATUS PROVISIONS

Section A. Conflict with Other Ordinances

In case of conflict between this Ordinance or any part thereof, and the whole or part of any existing or future Ordinance of the City of Morristown, Tennessee, the most restrictive shall in all cases apply.

Section B. Severability

If any section, clause, provision, or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this Ordinance which is not of itself invalid or unconstitutional.

Section C. Effective Date

This Ordinance shall become effective immediately after its passage, in accordance with the Charter of the City of Morristown, Tennessee, and the public welfare demanding it.

PASSED ON FIRST READING THIS THE 16th DAY OF FEBRUARY, 2016.

MAYOR

ATTEST:

CITY ADMINISTRATOR

PASSED ON SECOND AND FINAL READING THIS THE 1ST DAY OF MARCH, 2016.

MAYOR

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ATTEST:

CITY ADMINISTRATOR

Memorandum

To: Morristown City Council

From: Richard DesGroseilliers, GISP

Date: February 10, 2016

Subject: Contract Amendment with Kimley Horn Associates for CEI Services for the Safe Routes to School Project

This is for the approval of CEI Services contract with Kimley horn Associates for the Safe Routes to School project. Then project duration is for 2 months. It is anticipated that the construction start date of this project will be after the end of the FY2015-2016 School year (sometime after May 20, 2016). 1 inspector in the field will be sufficient for this construction project.

The breakdown of the \$52,500.00 funds will be:

total	federal funds	Local match
\$52,500.00	\$52,500.00	\$0.00

Staff recommends approving the contract amendment as submitted.

Rich DesGroseilliers, GISP, MTPO Coordinator
100 W 1st N St
Morristown, TN 37816-1499
richd@mymorristown.com

Thank you for your time and cooperation.

This task order 004-B is an amendment to Task Order 004 for the Lincoln Heights Safe Routes to School Project. As stated in Task Order 004 and 004-A, this amendment will serve as the Construction Engineering Inspection (CEI) for the project.

A detailed description of our Scope of Services, Fee, and Schedule for Task Order 004-B are as follows:

Task 8 – Construction Engineering Inspection (CEI)

Kimley-Horn, together with our Subconsultant – Smith Seckman Reid, Inc. (SSR) – will provide Construction Engineering and Inspection (CEI) services for the Client in accordance with Appendix C, Roadway and Bridge Field Construction Procedures, in the TDOT “Local Government Guideline for the Management of Federal and State Funded Transportation Projects.” Kimley-Horn, via our Subconsultant, will provide the appropriate field and office staff required to assist the Client in compliance with the guidelines for Locally Managed Projects as outlined in the sub-tasks below. It is assumed that there will be one (1) construction contract for the entire project and that the construction phase of this project will have a two (2) month duration. Furthermore, Kimley-Horn anticipates that one (1) inspector in the field will be sufficient for this construction project.

Task 8.1 – Pre-Construction and Pre-Erosion Conference

Kimley-Horn will prepare for and conduct one (1) Pre-Construction and Pre-Erosion Conference at a time and location determined by the Client and TDOT. Kimley-Horn will respond in writing to issues that arise at the meeting. Kimley-Horn will prepare and distribute meeting minutes.

Task 8.2 – Construction Progress Meetings

Kimley-Horn will coordinate with the Contractor to schedule monthly construction progress meetings. This sub-task will consist of scheduling the meeting, preparing the meeting agenda, attending and producing meeting minutes for up to two (2) monthly progress meetings.

Task 8.3 – Provide Utility Coordination

Kimley-Horn will provide project utility coordination and will coordinate individually and as a whole with the multiple utility companies identified in the construction documents as owning facilities within the project limits. Kimley-Horn will invite each utility company to attend the monthly progress meetings. Kimley-Horn will coordinate with the identified utility meeting participants to keep them informed of the construction schedule and when work is expected to begin in and around their utilities. Kimley-Horn is not responsible for the timeliness, correctness, or adequacy of the work performed by the various utility contractors, and shall not be held liable for damages or delays resulting from the Contractor's work or lack thereof. The sole purpose of Kimley-Horn's role with respect to utilities as related to this project is the coordination of continued progress of the project as a whole and to attempt to coordinate construction work that may interfere with utilities.

Task 8.4 – Supplemental Agreements / Construction Change Orders

Kimley-Horn will notify the Client of the necessity for any Supplemental Agreements / Construction Changes up to a maximum of three (3) change orders. Kimley-Horn will negotiate prices for additional pay items with the contractor while adhering to the “TDOT Average Unit Price” listing when possible and coordinate acceptance of prices with the Client. Kimley-Horn will prepare the Supplemental Agreement / Construction Change and submit to the Client for final review and submittal for processing. Any work that cannot be negotiated with the prime

contractor will be pursued by Force Account as defined in the TDOT Standard Specifications and recorded on forms supplied by TDOT. Kimley-Horn will review any Value Engineering Change Proposals and prepare recommendations for the Client.

Task 8.5 – Shop Drawings and Submittals

Kimley-Horn will review and approve or take other appropriate action with respect to Shop Drawings and Submittals, up to a maximum of five (5) Shop Drawings and Submittals, but only for conformance with the Contract Documents. Such review and approvals or other action will not extend to means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction or to related safety precautions and programs.

Task 8.6 – Quality Assurance, Testing for Acceptance, and Training

Kimley-Horn will provide certified and trained personnel for field and plant testing and inspection. Kimley-Horn will monitor the testing provided by the Contractor in the field as defined in the Contract, Plans or Specifications and document testing on standard forms normally used by TDOT. Kimley-Horn will monitor documentation of testing by the Contractor. Field testing consists of ACI tests for concrete consisting of concrete plant, nuclear density testing of subgrade and earthwork, base stone, asphalt, structural backfill, and pipe backfill as defined in the Standard Specifications and the TDOT sampling and testing schedule. Kimley-Horn (via our CEI Subconsultant) will provide source or plant testing according to TDOT Standard Specification 106.05 to consist of asphalt plant inspection (if these materials are proposed in the Plans). Kimley-Horn will provide miscellaneous checking of application rates and dimensions and bearings to review conformance to Plans and Specifications. In case of notification of defective concrete as defined in the Specifications, the Consultant will submit the initial information on TDOT standard forms and receive the final disposition of the material after review. Certifications of material submitted by the Contractor will be reviewed by Kimley-Horn for conformity to the Specifications. A Final Materials and Tests Certification will be provided in the Final Records submitted to the Client.

Task 8.7 – Progress Payments

Kimley-Horn will collect and assemble quantities for Monthly Progress Payments to the prime Contractor from actual project field records, as directed by Special Provisions in the contract, from Supplemental Agreements / Construction Changes, or from Force Accounts. The quantities for payment will be referenced to field records prior to submission for payment. Test reports will be on file prior to payment. Recommended pay quantities will be submitted to the Client for review and payment. Payments for stockpiled material may be made as defined in the TDOT Standard Specifications and approved by the Project Supervisor. Copies of approved subcontracts as well as copies of actual DBE Subcontractor's contracts will be on file prior to the first Progress Payment.

Task 8.8 – Distribution of Correspondence

Kimley-Horn will submit to the Client a copy of the correspondence between Kimley-Horn, the Client, the Contractor, Subcontractors, and TDOT concerning matters related to the project. Kimley-Horn will maintain an office file copy for submission with the project Final Records.

Task 8.9 – Inspection of Work

Kimley-Horn will provide construction observation (inspection) services to determine if the work is in general conformance with the Plans and Specifications for items that are being incorporated into the project. Kimley-Horn will observe, measure, and record the quantities for

payment. Kimley-Horn will record field measurements in project records for review by the Client, TDOT, or auditors. The records will be recorded on a standard form (field book) as normally used by TDOT and/or on field inspection forms to be submitted to the Client. Kimley-Horn will check traffic control daily, and additionally as required or requested, and will notify the Contractor of deficiencies or problems observed. Kimley-Horn will document weekly (or as often as necessary) project traffic control on forms normally used by TDOT and distribute as required. Kimley-Horn will observe daily erosion control items for conformance to the plans as well as effectiveness in the field and will notify the Contractor of deficiencies. Kimley-Horn will prepare to justify pay quantities in the case of questions by the Contractor or TDOT. Kimley-Horn will maintain a daily diary, signed by the field representative, consisting of:

- A record of the Contractors on the project
- Their personnel (number and classification)
- Equipment (number and type or size)
- Location and work performed by each Contractor or subcontractor
- Orders given the Contractor
- Events of note on the project
- Accidents on the project and any details surrounding the accident such as police report number, fatalities, causes, time, etc. Obtain a copy of the police report for the project records whenever possible.
- Weather, amount of precipitation, temperature at morning, noon, and evening, cloudy, clear, etc.
- Days charged, with explanation if not charged
- Equipment arriving or leaving the project, idle equipment

Each field technician will be certified in the applicable TDOT certification workshops listed below:

- Asphalt Roadway Paving Inspector
- Asphalt Concrete Certified Plant Technician
- Class 1 Concrete Technician
- Soils and Aggregate Technician
- Nuclear Gauge Training

Task 8.10 – Contractor Payrolls, Employee Interviews & Contract Compliance

Kimley-Horn will receive and check the Contractor's payrolls for conformance to state wage rates as defined in the contract. Late payroll information (two weeks late) is understood by Kimley-Horn to be appropriate justification to withhold progress payment. Kimley-Horn will notify the Prime Contractor of late payrolls and request immediate submission. Kimley-Horn will notify the Client prior to making a recommendation for withholding payments. Kimley-Horn will conduct Contractor employee interviews on the forms normally used by TDOT and compare to the submitted payrolls for accuracy. Kimley-Horn will notify the Prime Contractor of inaccuracies and seek to resolve discrepancies. Kimley-Horn will adhere to Special Provisions concerning reports to be submitted to the Contract Compliance office.

Task 8.11 – Reports

Reports and documents as required by TDOT guidelines will be generated by Kimley-Horn in the process of contract administration. Kimley-Horn will maintain either electronic or paper copies of project documentation in compliance with the TDOT Standard Operating Procedures.

Task 8.12 – Final Records

Kimley-Horn will submit a compilation of project records in TDOT standard format to the Client after project completion. Kimley-Horn will make one set of corrections when/if notified and resubmit the records and a final estimate for the project at the appropriate time. Kimley-Horn will submit final forms (FHWA-47, CC3, etc.) with the final records.

Task 11 Kimley-Horn Deliverables:

Pre-Construction Conference Meeting Minutes (PDF format)
Construction Progress Meeting Minutes (PDF format)
Shop Drawing / Submittal Review Correspondence (PDF format)
CEI Documentation consistent with TDOT Procedures

Task 9 – Additional Services

Any services not specifically provided for in the above scope will be billed as additional services and performed at our then current hourly rates. Additional services we can provide include, but are not limited to, the following:

- Additional property research, boundary survey or topographic survey outside of the project limits listed above
- Additional design of sidewalk on Lincoln School property
- Stormwater Pollution Prevention Plan (SWPPP) development
- Tennessee Department of Environment and Conservation (TDEC) or Army Corps of Engineers (ACOE) permits
- Right-of-Way Services
- Bidding Phase Services
- Construction Phase Services
- Others as requested by the Client

The above services can be provided through an amendment to this agreement upon written request and authorization by the City of Morristown.

Schedule

We will provide our services as expeditiously as practicable with the goal of meeting the following schedule:

Kimley-Horn will begin Task 8 as soon as this task order has been fully executed and the City and TDOT have concurred with the award of the contract. Our services will follow the schedule of the contractor and are based on the 2 month construction schedule outlined in the construction contract documents.

Fee and Expenses

KHA will perform the services described in Task 8 for the total lump sum fee below:

Task 8 – Construction Engineering Inspection (CEI) **\$52,500**

The lump sum fees will be invoiced monthly based upon the overall percentage of services performed. Payment will be due within 25 days of your receipt of the invoice.

Closure

In addition to the matters set forth herein, our Agreement shall include and be subject to, and only to, the Engineers Joint Contract Documents Committee (EJCDC) Agreement: E-505, Standard Form of Agreement between Owner and Engineer for Professional Services – Task Order Edition. This exhibit is considered Task Order Number 004-B for the above referenced contract. As used in the Agreement, “Engineer” shall refer to Kimley-Horn and Associates, Inc., and “Owner” shall refer to the **City of Morristown, Tennessee**.

 X Please ONLY provide a hard copy invoice to the address listed above to the attention of Alan Hartman or provide alternative address.

OWNER:

By: _____

Name: _____

Title: _____

Date: _____

ENGINEER:

By: Christopher D. Rhodes

Name: Christopher D. Rhodes, P.E.

Title: Vice President

Date: January 21, 2016

Engineer License or

Firm's Certificate Number: 5571

State of: Tennessee

DESIGNATED REPRESENTATIVE:

Name: Alan Hartman

Title: Planning Director

Address:

P. O. Box 1499

Morristown, Tennessee 37816-1499

E-mail Address:

ahartman@mymorristown.com

Phone: 423-581-0100

Fax: 423-586-1205

DESIGNATED REPRESENTATIVE:

Name: Zachary J. Dufour, P.E.

Title: Project Manager / Associate

Address:

214 Oceanside Drive

Nashville, Tennessee 37204

E-mail Address: _____

zachary.dufour@kimley-horn.com

Phone: 615-564-2701

Fax: N/A

Debra Stamey

From: James Whitbeck
Sent: Thursday, February 04, 2016 10:46 AM
To: Debra Stamey
Cc: Tony Cox; Paul Brown; Michael Poteet
Subject: Agenda Request
Attachments: 8-30_Change_Order_1_Turn Lane.pdf

I'd like to request the attached be added to the next Council agenda, on 2/16.

"Approval of Change Order #1 for the contract for Right Turn Lane on Walters Drive SB onto SR 34 (US 11E) WB, to increase the contract amount by \$6,178.34, from \$87,597.75 to \$93,776.09, to adjust the initial estimates to match the actual quantities installed and to add 22 days to the contract for delays in fabrication and delivery of the signal poles."

Thank you,

Jim Whitbeck, P.E.
City of Morristown
(423) 353-1055 direct
(423) 585-4658 main



**Supplemental Agreement and/or Request for Construction Change
Change Order Request # 1**

Project Title/Termini: Right Turn Lane on Walters Drive SB onto SR 34 (US 11E) WB
Owner: City of Morristown PIN: 105697.00
Address: PO Box 1499 State Project No.: 32950-3682-54
Morristown, TN 37816 Federal Project No.: STP-M-9113(8)
Date Prepared: 1/6/2016 Contract No.: 3238I2
County: Hamblen

Whereas, we Summers-Taylor, Inc. with Fidelity & Deposit Company of Maryland, as a Surety, entered into a contract with the City of Morristown, TN, on June 29, 2015, for the construction by said Contractor of the above designated contract; and Whereas, certain items of construction encountered, are not covered by the original contract, we desire to submit the following additional items of construction to be performed by the Contractor and paid by the Owner at the price(s) scheduled therefore below:

The purpose of this Change Order is to:

- 1) Adjust final contract quantities per the attached table.
- 2) Adjust final completion date per the attached request from Summers-Taylor dated December 4, 2015.

As a result of this Change Order, contract time shall:

☐ Not Change, ☒ Increase by 22 days, ☐ Decrease by _____ days

Original contraction Completion Time: 150 days (Date: 11/26/15)

Approved Change Orders: _____

Current Change Order: _____

Contract Completion Time with Change Orders: 172 days (Date: 12/18/15)

Unit prices listed below include labor, materials, profit, overhead, and incidentals necessary to complete this work. A separate attached spreadsheet with the same information may be used in lieu of the table below.

Item No.	Description	Unit	Current/ Pending Quantities	Revised Quantities	QTY Over + QTY Under -	Contract Price	Net Amount Due Change
						\$	\$
						\$	\$
						\$	\$
						\$	\$
						\$	\$

Bid Contract Amount: \$87,597.75

Current Change Order: \$6,178.34

Approved Change Orders: \$0.00

Pending Change Orders: \$0.00

Total Change Orders to Date: \$6,178.34



**Supplemental Agreement and/or Request for Construction Change
Change Order Request # 1**

Project Title/Termini:	<u>Right Turn Lane on Walters Drive SB onto SR 34 (US 11E) WB</u>		
Owner:	<u>City of Morristown</u>	PIN:	<u>105697.00</u>
Address:	<u>PO Box 1499</u>	State Project No.:	<u>32950-3682-54</u>
	<u>Morristown, TN 37816</u>	Federal Project No.:	<u>STP-M-9113(8)</u>
Date Prepared:	<u>1/6/2016</u>	Contract No.:	<u>3238I2</u>
		County:	<u>Hamblen</u>

Now, Therefore, We, Summers-Taylor, Inc., Contractors, and Fidelity & Deposit Company of Maryland, Surety, hereby agree to the Supplemental Agreement consisting of the above mentioned items and prices, and agree that this Supplemental Agreement is hereby made a part of the original contract and will be performed by this Contractor in accordance with specifications thereof, and that the original contract remain in full force and effect, except insofar as specifically modified by this Supplemental Agreement.

Recommended for Approval

By: Randy W. Beckner 1/6/16
Engineer/CEI Date

Approved By:

By: _____
Contractor Date

By: _____
Surety Date

By: _____
Owner Date

Approved for Eligibility:

By: _____
Local Programs Planner Date



FINAL QUANTITIES

STATE PROJECT # 32950-3682-54

FEDERAL PROJECT # STP-M-9113(8)

PROJECT DESC Right Turn Lane On Walters Drive Southbound onto S.R. 34 (U.S. 11E) Westbound

CONTRACT # 323812

PIN # 105697.00

ORIGINAL AMOUNT \$ 87,597.75

EXECUTION DATE 6/29/2015

EFFECTIVE DATE 7/13/2015

TIME COMPLETE 88.37%

REVISED AMOUNT \$ 93,776.09

CONTRACT END 12/18/2015

CONT WORK DAYS 152

WORK COMPLETE 100.00%

BID ITEM NO.	DESCRIPTION	UNIT OF MEAS	CURRENT	QUANTITIES REVISED	OVER/UNDER	UNIT PRICE	NET AMOUNT CHANGE
105-01	Construction Stakes, Lines, and Grades	LS	1.00	1.00	-	\$ 1,210.00	\$ -
203-01	Road & Drainage Excavation (Unclassified)	CY	168.00	200.00	32.00	\$ 67.50	\$ 2,160.00
303-01	Mineral Aggregate, Type A Base, Grading D	TON	102.00	154.63	52.63	\$ 49.00	\$ 2,578.87
307-01.01	Asphalt Concrete Mix (PG64-22) (BPMB-HM) Grading A	TON	32.00	40.47	8.47	\$ 205.00	\$ 1,736.35
307-01.08	Asphalt Concrete Mix (PG64-22) (BPMB-HM) Grading B-M2	TON	21.00	23.83	2.83	\$ 268.00	\$ 758.44
402-01	Bituminous Material For Prime Coat (PC)	TON	1.00	-	(1.00)	\$ 100.00	\$ (100.00)
402-02	Aggregate For Cover Material (PC)	TON	1.00	-	(1.00)	\$ 35.00	\$ (35.00)
403-01	Bituminous Material For Tack Coat (TC)	TON	1.00	0.21	(0.79)	\$ 750.00	\$ (592.50)
411-01.01	ACS Mix (PG64-22) Grading D	TON	76.00	83.51	7.51	\$ 215.00	\$ 1,614.65
415-01.02	Cold Planing Bituminous Pavement	SY	917.00	917.00	-	\$ 8.75	\$ -
701-02.03	Concrete Curb Ramp	SF	50.00	25.00	(25.00)	\$ 61.00	\$ (1,525.00)
702-03	Concrete Combined Curb & Gutter	CY	13.00	13.87	0.87	\$ 435.00	\$ 378.45
712-01	Traffic Control	LS	1.00	1.00	-	\$ 7,500.00	\$ -
712-04.01	Flexible Drums (Channelizing)	EA	20.00	20.00	-	\$ 38.00	\$ -
712-06	Signs (Construction)	SF	176.00	176.00	-	\$ 8.00	\$ -
712-08.03	Arrow Board (Type C)	EA	1.00	1.00	-	\$ 450.00	\$ -
716-02.05	Plastic Pavement Marking (Stop Line)	LF	35.00	37.00	2.00	\$ 11.00	\$ 22.00
716-02.06	Plastic Pavement Marking (Turn Lane Arrow)	EA	3.00	3.00	-	\$ 165.00	\$ -
716-04.05	Plastic Pavement Marking (Straight Arrow)	EA	2.00	2.00	-	\$ 150.00	\$ -
716-13.06	Spray Thermo Pvmnt Marking (40 Mil) (4 Inch Line)	LM	0.200	0.13	(0.067)	\$ 15,500.00	\$ (1,038.50)
717-01	Mobilization	LS	1.00	1.00	-	\$ 7,945.00	\$ -
740-11.01	Temporary Sediment Tube 8" (EPSC)	LF	230.00	-	(230.00)	\$ 4.25	\$ (977.50)
801-03	Water (Seeding & Sodding)	MG	1.00	-	(1.00)	\$ 50.00	\$ (50.00)
805-01	Sodding (New Sod)	SY	50.00	166.10	116.10	\$ 10.75	\$ 1,248.08
TOTALS							\$ 6,178.34



Summers-Taylor, Inc.

Box 1628, 300 West Elk Avenue
Elizabethton, TN 37644-1628
Phone (423) 543-3181 Fax (423) 543-6189
www.summertaylor.com

December 4, 2015

Mr. Randy Beckner, P.E.
Mattern & Craig Consulting Engineers
429 Clay Street
Kingsport, TN 37660

Re: City of Morristown- Right Turn Lane on Walters Drive
Southbound onto S.R. 34 (US 11E) Westbound

Randy,

Summers-Taylor, Inc. has been delayed in one of the major areas of work on the above referenced project. After the signal poles were approved for fabrication and delivered to the project, the remaining construction schedule had insufficient time for contract completion by the contract date of 11/26/15.

Based on the remaining work on the project we anticipate a completion date of 12/18/15.

Therefore, we respectfully request a time extension until 12/18/15

Should you have any questions please call @ 423-543-3181.

Sincerely,

Danny Matthews
Vice President, Estimating



Morristown City Council Agenda Item Summary

Date: February 9, 2016

Agenda Item: Approval of Bid – Athletic Equipment

Prepared by: Joey Barnard

Subject: Athletic Equipment

Background/History: The Morristown Parks and Recreation department provides athletic supplies for both youth and adult recreational sports. In addition, the department maintains several facilities year round for public use. Bids were received for a variety of athletic equipment to ensure the best price from various vendors.

Findings/Current Activity: The bid was advertised in the *Citizen Tribune* on January 11, 2016 and on January 18, 2016. Additionally, the bid was posted to the City of Morristown's website and through Vendor Registry, an on-line bid facilitation website. The submission deadline was 11:00 AM on Monday, January 25, 2016. We received six (6) responses.

Financial Impact: Funds have been appropriated for the purchase of athletic equipment for the Parks and Recreation Department. It is our recommendation to award partial bid to two vendors. BK Graphics submitted the lowest bid for athletic jerseys, while BSN Sports submitted the overall lowest bid for athletic supplies. The splitting of the bid allows for the Parks and Recreation Department to receive the overall best price for all athletic equipment. The total bid has an approximate cost of \$23,500. Again, this is within budget of the funds that have been appropriated.

Action options/Recommendations: It is staffs' recommendation to accept the lowest and best bids submitted by BK Graphics and BSN Sports as detailed above and summarized in the bid tabulation included herein.

Attachments: Bid Tabulation.

City of Morristown
Athletic Equipment Bid
Monday, January 25, 2016 11:00 a.m.

Bidder	BK Graphics	Simply Tee-Rite	Riddell	BSN Sports	Aluminum Athletic	American Soccer
ATHLETIC EQUIPMENT						
1 Two-button Placket Shirt (Premium Blend 50/50)	\$ 3,588.00	\$ 3,600.00	\$ 5,328.00	\$ 4,600.00		\$ 6,780.00
2 Best by Fruit of the Loom (Premium Weight 50/50)	\$ 3,159.00	\$ 3,120.00	\$ 4,594.20	\$ 4,017.00		
3 Powder Blue "T" Shirt with Umpire logo on front	\$ 135.36	\$ 144.00	\$ 165.24	\$ 171.00		
4 Red "T" Shirt with Volleyball Peterree logo on front	\$ 92.40	\$ 96.00	\$ 110.16	\$ 114.00		
5 AC Star AD 100 XL Diamond DDL Rawlings 5 LLB, MacGregor MCB76C1X			\$ 292.50	\$ 338.20		
6 Martin #1125, AD Star AD 100 LL, MacGregor MCB76C1X			\$ 1,046.40	\$ 1,327.20		
7 P/S MacGregor MCSB12LLY, AD Star GA12/47			\$ 814.50	\$ 699.12		
8 Diamond 12BYLL BS-MSCB12LLY			\$ 417.15	\$ 233.04		
9 MacGregor MCSB11LLY, AD Star GA11/47			\$ 814.50	\$ 661.68		
10 MacGregor MCB53V05 Worth RIF 55, AD Star WAB 5-S, MG Easter-S			\$	\$ 651.06		
11 AD Star WAB 1-S, MacGregor MCB56TBX, Martin TB20, Riddle M3TBBL			\$ 327.00	\$ 162.24		
12 AD Star WAB 5 11-S, MacGregor DY5111S			\$	\$ 427.56		
13 AD Star WAB 1 11-S, Martin SB1112			\$ 738.00			
14 R 422115, AD Star MVP 1000			\$ 252.00	\$ 347.44		
15 ADS BH610			\$ 150.00	\$ 107.16		
16 Rawlings LLBP-1, Martin CF20, MacGregor MCB76			\$	\$ 152.88		
17 MacGregor MCB65, Riddle LG1-9, Rawlings 7 1/2 C, Martin LG 40, AD Star ADLG1-1			\$ 96.00	\$ 100.92		
18 Rawlings PCM 30, Mizuno MFR C001, MacGregor MCCM190X, Cooper 33006			\$	\$		
Cobra Youth ST1P1, Cobra Adult ST1P1, Capco Style ACT5 Outdoors GL575,				\$ 240.18		
19 Outdoors GL 575, Young Un	\$ 3,123.00	\$ 3,150.00	\$ 5,264.00	\$ 5,175.00		

	BK Graphics	Simply Tee-Rific	Riddell	BSN Sports	Aluminum Athletic	American Soccer
20 Long Bill Umpire Hats				\$ 75.00		
21 MacGregor MC827, Martin FMM 10				\$ 300.06		
MacGregor MLB79BXX, AD Star CP UMP-1				\$ 356.88		
22 Martin CP 90				\$ 256.44		
MacGregor MC867XXX, Martin LG110, AD				\$ 1,562.96		
23 Starr LG-UMP				\$ 158.42		
24 Holly Impact Bases MASA 01321				\$ 425.16		
25 MASA 01181K				\$ 326.64		
26 MASA 01175				\$ 142.08		
27 MASA 02908				\$ 331.92	\$ 666.00	
28 MASA 01188				\$ 155.76	\$ 336.00	
29 MASA 01190				\$ 366.56		
30 MASA 01193				\$ 551.20		
31 MASA 03138				\$ 821.34		
32 MASA 03140				\$ 77.56		
33 Spalding Top Elite 1000				\$ 349.02		
34 Spaulding Top Elite 500 (Wom) LE-LBTF500W				\$ 359.52		
35 Spaulding Top Elite 500 (Men) LE-LBTF500M						
36 Trachikara Volleyballs						
37 Kickballs			NO BID			
38 Martin #85, MacGregor SNBBNWIP				\$ 47.04	\$ 522.00	
39 MacGregor BBPATTEE Martin ET 70			\$ 323.46	\$ 245.52		
40 MASA 01C37WL				\$ 127.18		
41 MASA 01200				\$ 271.48	\$ 250.00	
42 MASA 01808				\$ 83.82	\$ 150.00	
43 MASA 04184				\$ 496.02		
44 MASA 01953				\$ 148.40		
45 MASA 05481				\$ 173.85		
46 FNC2G5-315			NO BID			
TOTAL	\$ 10,097.76	\$ 10,110.00	\$ 26,262.46	\$ 27,735.64	\$ 1,924.00	\$ 6,780.00

Took Exception
NO BID



Morristown City Council Agenda Item Summary

Date: February 9, 2016

Agenda Item: Approval of Bid – Uniforms

Prepared by: Joey Barnard

Subject: Uniforms

Background/History: Historically the Public Works Department has leased uniforms for its employees. However, in an effort to better manage costs, the Public Works Department and its employees have re-evaluated this practice. They have elected to purchase uniforms for Public Works employees excluding mechanics. Mechanics will still receive leased uniforms that are laundered by the rental company. The majority of the remaining employees stated that they preferred to launder their own clothes. Each employee will receive seven (7) outfits to wear.

Findings/Current Activity: The bid was advertised in the *Citizen Tribune* on January 11, 2016 and on January 18, 2016. Additionally, the bid was posted to the City of Morristown's website and through Vendor Registry, an on-line bid facilitation website. The submission deadline was 2:00 PM on Monday, January 25, 2016. We received four (4) responses.

Financial Impact: Funds have been appropriated for uniforms for the Public Works Department. Bid specifications were made referencing the uniforms previously leased. The referencing was made in order to provide a benchmark for comparability only. This is stated in the Terms and Conditions of our bid. Additionally, our Terms and Conditions permit the City of Morristown to take exception so long as product(s) chosen are comparable. One bidder submitted a bid to the specifications that were referenced. It should be noted that nothing precluded the bidder from bidding a different product or from providing an alternative to the bid. Based on the purchase plan stated previously, this bid has an approximate total cost of \$25,000. However, the City of Morristown received a lower bid that did take exception to the specifications because they were not offering the name brand specified. Based on the purchase plan stated previously, this bid has an approximate total cost of \$18,200. The uniform garments bid by Access Solutions

were found to be comparable and cost approximately \$6,800 less from the next lowest bid.

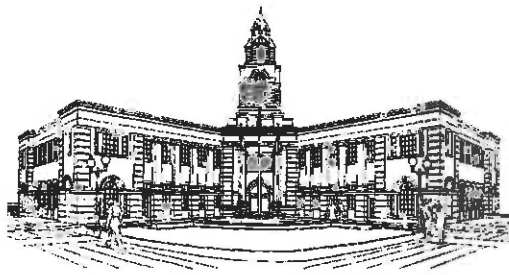
Action options/Recommendations: It is staffs' recommendation to accept the lowest and best bid submitted by Access Solutions as detailed above and summarized in the bid tabulation included herein.

Attachments: Bid Tabulation.

City of Morristown
Uniform Bid

Monday, January 25, 2016 2:00 p.m.

Bidder	BK Graphics	American FR & Safety	UnlFirst	Access Solutions
Specification Compliance	Fully Complies	Took Exceptions	(Did not have Conflict of Interest form notarized per instructions)	Took Exceptions
Uniweave MicroCheck Long Sleeve	\$22.27 S-XL \$24.27 2X-4X	RedKap SP10 \$25.59 S-XL \$29.71 2X-4X	\$21.59 S-XL \$25.19 2X-4X	\$16.99 S-XL \$18.36 2X-4X
Uniweave MicroCheck Short Sleeve	\$19.57 S-XL \$21.57 2X-4X	RedKap SP20 \$23.73 S-XL \$27.48 2X-4X	\$19.79 S-XL \$21.59 2X-4X	\$15.43 S-XL \$16.55 2X-4X
Berne Heavyweight Pocket T-Shirt Long Sleeve	\$13.97 S-XL \$15.47 2X-4X	\$15.94 S-XL \$18.53 2X-4X	\$18.89 S-XL \$20.69 2X-4X	\$8.45 S-XL \$10.10 2X-4X
Berne Hooded Sweatshirt	\$29.70 S-XL \$32.20 2X-4X	\$33.89 S-XL \$40.07 2X-4X	\$43.19 S-XL \$45.89 2X-4X	\$13.98 S-XL \$17.85 2X-4X
Short Sleeve Poly/Cotton Blend with Pocket	\$6.79 S-XL \$8.97 2X-4X	\$16.44 S-XL \$18.73 2X-4X	\$8.09 S-XL \$8.99 2X-4X	\$14.36 S-XL \$15.61 2X-4X
Softwill Blended Flat Front Pants	\$18.62 \$20.62 (44 and above)	RedKap PT20 \$16.95 \$20.33 (44 and above)	\$16.49 \$19.49 (44 and above)	\$14.30 \$15.68 (44 and above)
RIGGS Ripstop Carpenter Pants	\$35.37 \$37.37 (44 and above)	\$34.68 \$37.54 (44 and above)	\$37.49 \$38.99 (44 and above)	\$20.05 \$21.90 (44 and above)



Morristown City Council Agenda Item Summary

Date: February 9, 2016

Agenda Item: Approval of Bid – Overhead Sidewalk

Prepared by: Joey Barnard

Subject: Overhead Sidewalk

Background/History: In November 2015, the overhead sidewalk located at Main Street and N. Henry Street was struck and damaged by a piece of heavy machinery that was being transported on a trailer. The sidewalk was shifted and sustained structural and cosmetic damages. Repairs to the sidewalk will include straightening of bent reinforcement steel, adjustment of sidewalk shifting, and replacement of damaged concrete.

Findings/Current Activity: The bid was advertised in the *Citizen Tribune* on January 17, 2016 and on January 20, 2016. Additionally, the bid was posted to the City of Morristown's website and through Vendor Registry, an on-line bid facilitation website. The submission deadline was 2:00 PM on Thursday, February 4, 2016. We received two (2) responses.

Financial Impact: It is anticipated that this bid will not have a financial impact on the City of Morristown. The costs incurred by the City of Morristown on this project should be reimbursed by the other party or their insurance. The City of Morristown's insurance carrier, TML, is cognizant of this issue and is providing assistance in resolving the matter. The City of Morristown received two (2) bids. Herrco, Inc. submitted the lower of the two bids at \$58,300.

Action options/Recommendations: It is staffs' recommendation to accept the bid submitted by Herrco, Inc. as detailed above and summarized in the bid tabulation included herein.

Attachments: Bid Tabulation.



February 10, 2016

Mr. Joey Barnard, COFM, MBA
Financial/Purchasing Manager
City of Morristown
100 West First Street
Morristown, TN 37814

Re: Overhead Walkway Repair Project

Dear Mr. Barnard,

We have reviewed the two (2) bids which were submitted for the above captioned project. The two (2) bidders were as follows:

Company:	Herrco, Inc.	Southern Constructors, Inc.
Bid:	\$58,300.00	\$70,000.00

These bids were opened by the City and appear to be in order. Therefore, we recommend an award to Herrco, Inc. at 6037 W. Andrew Johnson Highway, Talbott, TN 37877.

We are available to assist with preparing the documents and a pre-construction conference, if desired.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Lamar Dunn', is written over a faint, larger signature.

Lamar Dunn, P.E., FACEC
President
STRATEGIC SERVICES COMPANY, LLC

CLD/alh

CITY OF MORRISTOWN
OFFICE OF FINANCE AND PURCHASING
BID: OVEHEAD SIDEWALK
BID OPENING DATE: FEBRUARY 4, 2016

Bidder	Herreo, Inc	Southern Constructors, Inc.					
Total	\$ 58,300.00	\$ 70,000.00					

From the Desk of

Debbie Stamey

**Deputy Clerk/Executive Secretary
(423) 585-4603**

e-mail dstamey@mymorristown.com

TO: Mayor Chesney

**RE: Appointment of Morristown Regional Planning Commission
Board Member's**

DATE: February 12, 2016

Morristown Regional Planning Commission Board Member's William Thompson & Wayne NeSmith terms will expire on March 1, 2016.

{This is a Mayor appointment, or re-appointment, for a four (4) year term to expire on March 1, 2020 scheduled for the February 16, 2016 City Council meeting.}

From the Desk of

Debbie Stamey

City Clerk/Executive Secretary

(423) 585-4603 Fax (423) 585-2792

e-mail dstamey@mymorristown.com

TO: Mayor & Councilmembers

RE: Surplus Property

DATE: February 12, 2016

Public Works Director Paul Brown has requested the following be declared surplus property:

- 6 Plastic 3 section traffic signal housings
- 1 Plastic 4 section traffic signal housing

Morristown Police Department

ROGER OVERHOLT
Chief of Police



February 4, 2016


Mayor and Councilmembers:

I have completed a background check on Charles Hodge D.O.B. 8/21/59 and Cynthia Shoun D.O.B. 12/10/55 for the purpose of signing a renewal Certificate of Compliance for the retail package store doing business as Chuck's Package Store, LLC located at 3401 West Andrew Johnson Highway.

Based on my investigation, it is my belief that these individuals have not been convicted of a felony in the **last 10 years** and you can feel confident in signing the Certificate of Compliance stating that a careful check was conducted.

If you have any further questions, please feel free to contact me at (423)318-1552.

Respectfully,

Lt. Billy Gulley 

Lt. Billy Gulley,
Support Services Supervisor
Morristown Police Department

cc: Roger D. Overholt, Chief of Police
file

Morristown Police Department

ROGER OVERHOLT
Chief of Police



February 4, 2016


Mayor and Councilmembers:

I have completed a background check on Larry A. Bolton D.O.B. 11-2-47 for the purpose of signing a renewal Certificate of Compliance for the retail package store doing business as The Cellar, Inc. 1405 W. Morris Boulevard.

Based on my investigation, it is my belief that these individuals have not been convicted of a felony in the **last 10 years** and you can feel confident in signing the Certificate of Compliance stating that a careful check was conducted.

If you have any further questions, please feel free to contact me at (423)318-1552.

Respectfully,

Lt. Billy Gulley 

Lt. Billy Gulley,
Support Services Supervisor
Morristown Police Department

cc: Roger D. Overholt, Chief of Police
file

City of Morristown

Incorporated 1855



MEMORANDUM

TO: Mayor and City Council Members

FROM: Roger D. Overholt, Chief of Police

DATE: February 10, 2016

RE: Confirmation of Disciplinary Action

I am asking that you confirm the disciplinary action I have recently taken which resulted in the termination of a Patrol Officer. The action was necessary due to the several areas that the officer fell short of the law enforcement standards and service we expect our officers to provide. Civil Service rules require that the appointing authority confirm such disciplinary action taken.