

**AGENDA
CITY OF MORRISTOWN, TENNESSEE
CITY COUNCIL MEETING
JULY 18, 2017 – 5:00 P.M.**

1. CALL TO ORDER

Mayor Gary Chesney

2. INVOCATION

Dr. Gary Brewster, Chaplain, Morristown Police Department

3. PLEDGE OF ALLEGIANCE

4. ROLL CALL

5. APPROVAL OF MINUTES

1. June 20, 2017

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. 3581
Being an Ordinance of the City Council of Morristown, Tennessee,
Amending Title 18 (Water and Sewers) Chapter 5 (Stormwater Program)
of the Morristown Municipal Code.

9. NEW BUSINESS

9-a. Resolutions

1. Resolution No. _____
A Resolution Authorizing the City of Morristown to Participate in The
Pool's "Safety Partners" Matching Grant Program.

9-b. Introduction and First Reading of Ordinances

1. Ordinance No. _____
Being an Ordinance of the City Council of Morristown, Tennessee,
Amending Title 3 (Municipal Court) Chapter 1 (City Court) of the
Morristown Municipal Code.
{Public Hearing August 1, 2017}
2. Ordinance No. _____
Being an Ordinance of the City Council of Morristown, Tennessee,
Amending Title 14 (Zoning and Land Use Control), Chapter 10
(Intermediate Business District), and Chapter 11 (Central Business
District).
{Public Hearing August 1, 2017}
3. Ordinance No. _____
Being an Ordinance of the City Council of Morristown, Tennessee,
Amending Title 14 (Zoning and Land Use Control – HOME
OCCUPATIONS).
{Public Hearing August 1, 2017}
4. Ordinance No. _____
Being an Ordinance of the City Council of Morristown, Tennessee,
Amending Ethics Policy.
{Public Hearing August 1, 2017}

9-c. Awarding of Bids/Contracts

1. Approval of Fire Department Uniform Bid from Galls for daily uniforms
and BKT for Class A Dress Uniforms and Police Department Uniform Bid
from Summit Uniforms.
2. Approval of Agreement between City of Morristown and LB Technology,
Inc. to purchase GPS enabled fleet tracking units and subscribe to
communication services from LB Technology, Inc.
3. Approval of Interlocal Agreement between the City of Morristown and
Hamblen County Board of Education and the Morristown Police
Department for School Resource Officers.
4. Approval of Interlocal Agreement between the City of Morristown and
Morristown Housing Authority (MHA) for law enforcement and police
services at MHA's housing facility locations.

5. Approval of General Engineering Services – Amendment No. 3 with McGill & Associates for general professional engineering services with an allocation of an initial \$40,000 in funding for the new fiscal year.
6. Approval of Curblin Maintenance Agreement between the City of Morristown and L&B Landscaping & Property Management.
7. Approval of Extension of Professional Services for FY2018 with Strategic Services Company, LLC (SSC) in the amount not to exceed \$40,000.
8. Approval of Amendment to the original lease for office space located at 1748 West Andrew Johnson Hwy., Morristown, TN to extend the current lease from November 1, 2017 to October 31, 2020, at the current monthly rent of \$1,650.
9. Approval of Inspection and Maintenance Agreement (I&M Agreement) between Walters Ridge Apartments, L.P. and the City of Morristown.

9-d. Board/Commission Appointments

1. City Council's consideration of Mayor Chesney's nomination to the Morristown Utility Commission for a five-year term to expire on July 31, 2022. {Term expiring: Lynn Elkins.}.
2. Mayor's appointment to the Morristown Regional Planning Commission to fill the remainder of the term held by K.C. Culberson-Alvarado; term expiring March 1, 2019.

9-e. New Issues

1. Approval of Certificate of Compliance for Gauri J. Patel for a retail package store renewal licensure, store located at 1506 South Cumberland Street, DBA The Package Store.
2. City Council confirmation of Fire Department disciplinary action.
3. Approval for Police Departments hiring of one (1) Entry-level Patrol Officer.

9-f. Executive Session

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

Aug 1, 2017	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
Aug 11-12, 2017	(Fri. & Sat)	City Council Annual Planning Work Session
		Meadowview Conference Center, Kingsport, TN
Aug 15, 2017	(Tues) 4:00 p.m.	Finance Committee Meeting
Aug 15, 2017	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
Sep. 4, 2017	(Monday)	City Employee's Holiday, Labor Day
Sep. 5, 2017	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
Sep. 19, 2017	(Tues) 4:00 p.m.	Finance Committee Meeting
Sep. 19, 2017	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
Oct. 3, 2017	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
Oct. 17, 2017	(Tues) 4:00 p.m.	Finance Committee Meeting
Oct. 17, 2017	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
Nov. 7, 2017	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
Nov. 21, 2017	(Tues) 4:00 p.m.	Finance Committee Meeting
Nov. 21, 2017	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
Nov. 23-24, 2017	(Thursday & Friday)	City Employee's Holiday, Thanksgiving

WORK SESSION AGENDA

1. Interlocal Agreements

**STATE OF TENNESSEE
COUNTY OF HAMBLLEN
CORPORATION OF MORRISTOWN
JUNE 20, 2017**

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, June 20, 2017, with the Honorable Mayor Gary Chesney, presiding and the following Councilmembers present; Bob Garrett, Chris Bivens, Dennis Alvis, and Tommy Pedigo, absent Kay Senter and Ken Smith.

Dr. Cynthia Thompson, Chaplain, Morristown Police Department, led in the invocation and Councilmember Alvis led in the "Pledge of Allegiance".

Councilmember Alvis made a motion to approve the June 6, 2017 minutes as circulated. Councilmember Bivens seconded the motion and upon roll call, all voted "aye".

Mayor Chesney presented a proclamation to Executive Vice President, Lyons Hamblen of Tuff Torq Corporation, on the 70th Anniversary of their parent company Kanzaki Kokukoki Manufacturing Company, Ltd.

A Public Hearing was held pertaining to Public Chapter 1101 regarding Ordinance No. 3218 and 3241, 3519, 3570 and 3571. No one spoke.

Ordinance No. 3218 and 3241 – Annexation of properties along Thompson Creek Road [May 10, 2005 and February 14, 2006].

Ordinance No. 3519 – Annexation of property located between Merchants Greene Boulevard and South Bellwood Road south of Veterans Parkway [June 2, 2015].

Ordinance No. 3570 – Annexation of property located along the northwest intersection of W. Economy Road and Catron Lane [November 15, 2016].

Ordinance No. 3571 – Annexation of property located along N. Bellwood Road [December 6, 2016].

A Public Hearing was held pertaining to Ordinance No. 3580. No one spoke

Councilmember Bivens made a motion to approve Ordinance No. 3580 on second and final reading. Councilmember Alvis seconded the motion and upon roll call, all voted "aye".

Ordinance No. 3580

An Ordinance of the City of Morristown, Tennessee Adopting the Annual Budget for the Fiscal Year Beginning July 1, 2017 and ending June 30, 2018.

A Public Hearing was held pertaining to Ordinance No. 3555.07. No one spoke.

Councilmember Alvis made a motion to approve Ordinance No. 3555.07 on second and final reading. Councilmember Pedigo seconded the motion and upon roll call; all voted "aye".

Ordinance No. 3555.07

An Ordinance to Amend Ordinance Number 3555, the City of Morristown, Tennessee, Annual Budget for the Fiscal Year 2016-2017 and to Appropriate the Sum of \$412,000 for Year End Budget Amendment for the General Fund. The Additional Appropriation is Primarily Funded from Revenues Exceeding Original Estimates and Related to Timing on Projects and Subsequent Reimbursement.

Councilmember Pedigo made a motion to approve Resolution No. 07-17. Councilmember Alvis seconded the motion and upon roll call; all voted "aye".

Resolution No. 07-17

A Resolution Adopting a Public Records Policy.

Councilmember Bivens made a motion to approve Ordinance No. 3581 on first reading and schedule a public hearing relative to final passage of said ordinance for July 18, 2017. Councilmember Alvis seconded the motion and upon roll call; all voted "aye".

Ordinance No. 3581

An Ordinance of the City Council of Morristown, Tennessee, Amending Title 18 (Water and Sewers) Chapter 5 (Stormwater Program) of the Morristown Municipal Code.

Councilmember Alvis made a motion to approve the Grant Contracts between the State of Tennessee Department of Transportation and the City of Morristown for Storm Drainage, Sinkhole Repair, Ditch Grading, Erosion Control Repair for the Morristown Municipal Airport in the amount of \$680,000, Runway Rehabilitation (pavement and Crack Seal) for the Morristown Municipal Airport in the amount of \$430,000 and for FY18 Airport Maintenance for the Morristown Municipal Airport in the amount of \$19,800. Councilmember Bivens seconded the motion and upon roll call; all voted "aye".

Councilmember Bivens made a motion to approve the following Work Authorizations between the City of Morristown and Michael Baker International, Inc. Work Authorization Number 12-2017 for Sinkhole Investigation & Remediation at the Morristown Municipal Airport in the not to exceed amount of \$47,077, Work Authorization Number 13-2017 for Drainage Improvements Project at the Morristown Municipal Airport in the not to exceed amount of \$54,441 and Work Authorization Number 14-2017 for Runway Crack Seal Project at the Morristown Municipal Airport in the not to exceed amount of \$45,695. Councilmember Alvis seconded the motion and upon roll call; all voted “aye”.

Councilmember Pedigo made a motion to approve Contract No. 11870, Amendment No. 1 between the City of Morristown and the Tennessee Valley Authority for funding to be used to extend Progress Parkway. Councilmember Alvis seconded the motion and upon roll call; all voted “aye”.

Councilmember Pedigo made a motion to approve the contract between the City of Morristown and Marblelife for City Center Floor Restoration in the amount of \$27,900. Councilmember Alvis seconded the motion and upon roll call; all voted “aye”.

Councilmember Alvis made a motion to approve Task Order Number 003 with McGill and Associates for the extension of Progress Parkway in the East Tennessee Progress Center (ETPC) for the lump sum fee of \$42,355. Councilmember Pedigo seconded the motion and upon roll call; all voted “aye”.

Councilmember Pedigo made a motion to approve the lease agreement between the City of Morristown and Amerigas Propane, L.P. for property at 321 Hamblen Ave., Morristown, TN. To extend the lease agreement for an additional five (5) year tenancy. The renewal period will begin on July 1, 2017 and terminate on June 30, 2022. Councilmember Alvis seconded the motion and upon roll call; all voted “aye”.

Councilmember Garrett made a motion to approve the Request for Proposal for Curb Line Maintenance for a one-time occurrence in the amount of \$16,380 to L&B Landscaping & Property Management and allow the City Administrator to enter into negotiations and a contract. This one-time maintenance would allow staff to measure the results and determine if future maintenance is warranted. Councilmember Pedigo seconded the motion and upon roll call; Councilmembers Garrett, Pedigo and Mayor Chesney voted “aye”; Councilmembers Bivens and Alvis voted “no”.

Councilmember Alvis made a motion to approve the application for a grant from Tennessee Department of Health for mosquito control in the amount of

\$10,000. Councilmember Bivens seconded the motion and upon roll call; all voted “aye”.

Councilmember Pedigo made a motion to approve the Engagement Letter with USI Consulting Group to create Other Post-Employment Benefits (OPEB) Plan in compliance with Government Accounting Standards Board (GASB 74) and (GASB 75). Councilmember Alvis seconded the motion and upon roll call; all voted “aye”.

Councilmember Bivens made a motion to approve the Sidewalk Maintenance Bid from Summers-Taylor, Inc. Councilmember Pedigo seconded the motion and upon roll call; all voted “aye”.

Councilmember Alvis made a motion to approve the Regional Government Enterprise License Agreement (ELA) for Geographic Information System (GIS) Software to Environmental Systems Research Institute, Inc. (ESRI) in the amount of \$50,000. Councilmember Bivens seconded the motion and upon roll call; all voted “aye”.

Councilmember Pedigo made a motion to approve the Purchase Order to A.M. Surveying, Inc. in the amount of \$14,500 land survey of Old Morristown College Site. Councilmember Alvis seconded the motion and upon roll call; all voted “aye”.

Councilmember Bivens made a motion to approve the Purchase Order for Fire Department Uniforms from Municipal Emergency Services, Inc. in the amount of \$14,608. Councilmember Alvis seconded the motion and upon roll call; all voted “aye”.

Councilmember Pedigo made a motion to nominate Dr. Alpha Alexander and Kay Senter to serve on the Morristown-Hamblen Library Board for three (3) year terms to expire July 1, 2020. Councilmember Alvis seconded the motion and upon roll call; all voted “aye”.

Councilmember Pedigo made a motion to approve the Certificate of Compliance for Ashish R. Patel who has made application to the Tennessee Alcoholic Beverage Commission for a retail package store licensure, store located at 2304 Morningside Drive; DBA Cork & Keg. Councilmember Garrett seconded the motion and upon roll call; all voted “aye”.

Mayor Chesney adjourned the June 20, 2017, City Council meeting at 5:46 p.m.

MAYOR

ATTEST:

CITY ADMINISTRATOR

DRAFT

ORDINANCE NO. 3581
BEING AN ORDINANCE OF THE CITY COUNCIL OF MORRISTOWN,
TENNESSEE AMENDING TITLE 18 CHAPTER 5 OF THE
MORRISTOWN MUNICIPAL CODE.

Be it ordained by the City Council for the City of Morristown that text of Title 18 Chapter 5 of the Morristown Municipal Code is deleted in its entirety and substituted therefore is the following:

TITLE 18 WATER AND SEWERS

"CHAPTER 5 - STORMWATER PROGRAM ORDINANCE^[5]

Sec. 18-501. - General provisions.

- (1) *Authorization.* The city is authorized to regulate and provide for the purposes listed in this chapter 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 chapter 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 chapter 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 chapter 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 chapter and to use its judgment in interpreting the various provisions of this chapter, and the stormwater program standard operating procedures to ensure that the city's goals are accomplished.
- (4) *Conflict and responsibility.* This chapter 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 chapter 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 chapter. 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 chapter.
- (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 chapter, 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 chapter, pursuant to TCA 69-3-107 (5) and (6).
- (9) *Jurisdiction.* The city shall administer the provisions of this chapter on all property inside the municipal boundaries of the City of Morristown.

(Ord. No. 3542, 2-16-2016)

Sec. 18-502. - Definitions.

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

303(d) list. Refer to impaired waters.

As-built plans. Drawings sealed by an engineer and/or surveyor depicting conditions as they were actually constructed.

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 chapter may be assessed a civil penalty by the city of not less than \$50.00 and not more than \$5,000.00 per day for each day of violation. Each day of violation shall constitute a separate violation.

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.

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.

Channel. A natural or artificial watercourse with a definite bed and bank that conducts flowing water continuously or periodically.

City. The City of Morristown, Tennessee.

City administrator or designee. The person designated by the City of Morristown to lead the stormwater program.

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.

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.

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.

Commencement of construction. The initial disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.

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.

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.

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.

Construction site operator. For the purpose of this chapter and in the context of stormwater associated with construction activity, means any person associated with a construction project that meets either of the following [three] 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."

Contaminant. Any physical, chemical, biological, or radiological substance or matter in water.

Control measure. As used in this chapter, refers to any best management practice or other method used to prevent or reduce the discharge of pollutants to Waters of the State.

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.

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.

Development. The alteration of undeveloped land that disturbs more than 2,400 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.

Developed land. Property altered from a natural state by construction or land disturbing activities.

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.

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.

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.

Engineer. A person registered with the Tennessee Board of Architectural and Engineering Examiners and licensed to practice engineering in the state of Tennessee.

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 square feet of impervious area shall be one equivalent residential unit (ERU).

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.

Erosion prevention. Practices implemented to prevent, through vegetating, shielding, binding, or other mechanism(s), the suspension of soil particles.

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.

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.

Fully completed application. The completed, signed application form accompanied by the appropriate permit fee and the required items indicated on the application form.

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.

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.

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.

Hazardous material. Material defined as a hazardous material under U.S. Department of Transportation regulations.

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.

Industrial waste. Liquid or other waste resulting from any process of industry, manufacturer, trade or business or from the development of any natural resources.

Inflow. Stormwater that enters into sanitary sewer systems at points of direct connection to the systems.

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.

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.

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".

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.

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.

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.

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.

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.

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.

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.

Multiple dwelling unit residential properties. Developed land whereon three 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 or more family groups commonly and normally reside or could reside.

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.

Municipality. As used herein refers to City of Morristown, Tennessee, a city and political subdivision of the State of Tennessee.

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."

Native vegetation. The normal vegetation that grows or would reestablish normally after a disturbance. This does not include invasive exotic plants.

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

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.

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.

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.

Pollutant. Sewage, industrial waste, or other waste or materials, whether liquid or solid.

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.

Redevelopment. The alteration of developed land that disturbs more than 2,400 square feet and increases the existing site or building impervious footprint by more than 2,400 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.

Responsible party. Owners and/or occupants of property within the city who are subject to penalty in case of default.

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.

Runoff. The portion of the precipitation on a drainage area that is discharged from the area to downstream areas. Also see stormwater runoff.

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.

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.

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.

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

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.

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.

Sediment control. Practices implemented to manage through filtering, settling, screening or other mechanism(s) to remove suspended particles (soil, organic or mineral) from water.

Sedimentation. Process of deposition of a solid material from a state of suspension in fluid, usually air or water.

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.
 - (1) 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.
 - (2) 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.
 - (3) 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.

Sinkhole. A naturally occurring depression where drainage collects in the earth's surface that is a minimum of two feet 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.

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.

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.

Stabilization. Providing adequate measures, vegetative or structural, that will prevent erosion from occurring.

Steep slope. A natural or created slope of 35 percent 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.

Stormwater. Is defined at 40 CFR § 122.26(b) (13) and means runoff from rain events, snowmelt runoff, and surface runoff and drainage.

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.

Stormwater management. The practices, strategies, and controls used to maintain the quality and quantity of stormwater runoff at pre-development levels.

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.

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.

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.

Stormwater program. Refers to the program created by City of Morristown and the city administrator to administer the provisions of this chapter and to manage the quantity and quality of stormwater discharged in or from the city's municipal separate storm sewer system (MS4).

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 chapter. Program costs specifically include costs incurred by the city for actions performed on behalf of or at the request of the program.

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.

Stormwater program service area. The entire physical area within the corporate limits of the City of Morristown.

Stormwater program staff. The group of people hired to assist the city administrator in carrying out the duties of the stormwater program.

Stormwater runoff. The flow on the surface of the ground resulting from precipitation.

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.

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.

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.

Stream. Surface water that is not a wet weather conveyance.

Structural BMPs. The devices that are constructed to provide control of stormwater runoff.

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.

Surveyor. A person registered with the Tennessee Board of Examiners for Land Surveyors and licensed to practice surveying in the state of Tennessee.

Tennessee Department of Environment and Conservation (TDEC). Is the state agency having water pollution control oversight.

Top of bank. The ordinary high water level and break in slope for a water resource.

Tributary area. The area upstream of a specified point including all overland flow that directly or indirectly connects down-slope to the specified point.

Water resources. For the purpose of this chapter, means streams, seeps, springs, wetlands, lakes, other surface waters and water resources that are not wet weather conveyances.

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.

Water quality management plan. See stormwater management plan.

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

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.

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

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.

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.

(Ord. No. 3542, 2-16-2016)

Sec. 18-503. - 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 chapter.
 - (b) Commence development or redevelopment of any site, building or structure without obtaining a land disturbance permit for activities requiring a permit under this chapter.
 - (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:
 - 1. 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;
 - 2. 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;
 - 3. 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:
 - 1. The stormwater discharge from a site is causing, contributing to, or is likely to contribute to a violation of a state water quality standard;
 - 2. The stormwater discharge is, or is likely to be a significant contributor of pollutants to waters of the state, or
 - 3. 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 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 acre and in square feet if proposed land disturbance is under one 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 18-404;
 - (m) A stormwater pollution and prevention plan to addresses activities at the site that cause or introduce pollutants in stormwater, as described in section 18-404, 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 18-405, for all land disturbing activity that requires a SWMP under section 18-405 of this chapter;
 - (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 chapter; 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 chapter. Within 30 days after receiving the application the stormwater program shall provide one of the following responses in writing to the applicant:
 1. Approval of permit application;
 2. Approval of permit application, subject to reasonable conditions as may be necessary to secure the objectives of this chapter and other applicable regulations, and issue the permit subject to these conditions; or
 3. 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 EPSCP under this chapter.
 - (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 chapter.
 - (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 \$50.00 for zero to two disturbed acres plus \$25.00 per acre or portion thereof above two acres with a maximum fee of \$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 100 percent.

- (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 18-503, 18-504 and 18-505 of this chapter.
- (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 18-503, 18-504, and 18-505 of this chapter.
- (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:
 - 1. Project results in the disturbance of one acre or more of land area
 - 2. 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.
 - 3. Project where the construction activities and/or land disturbance at the site are within 100 feet 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 one 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 150 percent 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 chapter 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 18-505.
- (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 18-503, 18-504 and 18-505 of this chapter 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 subsections 18-503(3)(a)—(c) as provided under this chapter.
- (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 18-508 and 18-509 of this chapter 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 18-505 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.

(Ord. No. 3542, 2-16-2016)

Sec. 18-504. - 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 chapter.

- (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 chapter.
- (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 acre and in square feet if proposed land disturbance is under one 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 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:
 - 1. Clearing and grubbing plan;
 - 2. Interim grading plan; and
 - 3. 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 chapter.
- (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 18-503 of this chapter, 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:
 1. 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.
 2. 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.
 3. 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.
 4. A description of stormwater sources from areas other than construction and a description of controls and measures that will be implemented at those sites.
 5. 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:
 1. Control stormwater volume and velocity within the site to minimize soil erosion;
 2. 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;
 3. Minimize the amount of soil exposed during construction activity;
 4. Minimize the disturbance of steep slopes;
 5. 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;
 6. Provide and maintain natural buffers around surface waters, direct stormwater to vegetated areas to increase sediment removal and maximize stormwater infiltration, unless infeasible; and
 7. 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.

(Ord. No. 3542, 2-16-2016)

Sec. 18-505. - 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 18-503 and 18-504.
 - (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:
 1. Applies for new or modified TMSP coverage for the area of proposed development or redevelopment.
 2. 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.
 3. 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:
 - 1. A water quality buffer zone is present on or adjacent to the project site or proposed land disturbance activity.
 - 2. 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:
 - 1. The stormwater discharge from a site is causing, contributing to, or is likely to contribute to a violation of a state water quality standard;
 - 2. The stormwater discharge is, or is likely to be a significant contributor of pollutants to waters of the state, or
 - 3. 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:
 1. 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;
 2. Current land use including all existing structures, locations of utilities, roads, and easements;
 3. All other existing significant natural and artificial features; and
 4. 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 chapter 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:
 1. A description of the design storm frequency, duration, and intensity where applicable
 2. Time of concentration;
 3. Soil types, curve numbers and runoff coefficients including assumed soil moisture conditions;
 4. Peak runoff rates and total runoff volumes for each watershed or drainage area;
 5. Infiltration rates, where applicable;
 6. Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;
 7. Flow velocities;
 8. 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.
 9. Data on the increase in rate and volume of runoff for the design storms referenced in the BMP manual; and
 10. 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.
 - 1. *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.
 - 2. *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 ten percent of the total drainage may be required by the city administrator or designee.
 - 3. 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.
 - 4. 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.
 - 5. 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.
 - 6. 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.
 - 7. 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 of the following conditions applies:
1. It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this chapter.
 2. 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.
 3. 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.
 4. 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.
 5. 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.
 6. 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 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:
 - 1. 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.
 - 2. 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 90 percent of the seeded area.
 - 3. 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.

4. Any area of revegetation must exhibit survival of a minimum of 75 percent of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum 75 percent survival for one 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 20 feet 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 chapter.
 - (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:

1. 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.
 2. Perform comprehensive inspections of all stormwater management facilities and practices. These inspections shall be conducted once every five 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.
 3. 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 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 chapter 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 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.

(Ord. No. 3542, 2-16-2016)

Sec. 18-506. - 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 square mile shall have a buffer width of 30 feet minimum.
- (b) Water resources with drainage areas equal to or greater than one square mile and/or are listed as impaired or exceptional Tennessee Waters shall have a buffer width of 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 percent located within the required water quality buffer zone. Where the slope within the water quality buffer zone meets or exceeds 15 percent 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:
 1. The width of the disturbance for the feature is the minimum required to allow for maintenance and access;
 2. The angle of the buffer crossing shall be within 25 percent of perpendicular to the stream in order to minimize clearing requirements;
 3. The number of buffer crossings is minimized, with no more than one crossing every 1,000 linear feet.
 4. 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.
 5. Maintenance to existing stormwater channels.
 6. 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:
 1. 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.

2. 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.
 3. 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 50 percent or more, re-vegetation with native plants is required to provide 50 percent 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 18-505 of this chapter.
 - (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 18-505 of this chapter. 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 150 feet. 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 18-507 of this chapter.
- (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 chapter.

- (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:
 - 1. 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
 - 2. the project will result in the restoration or enhancement to improve water quality and/or aquatic habitat quality; or
 - 3. Buffer intrusion is necessary to provide reasonable access to a property or properties; or
 - 4. 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
 - 5. 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
 - 6. Recreational foot trails, greenways and viewing areas, providing that impacts to the buffer are minimal; or
 - 7. The project involves construction of one 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
 - 8. 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
 - 9. 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
 - 10. 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
 - 11. 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

12. 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:
1. The 60-foot water quality buffer zone can be established on an average width basis as long as the width is not reduced to less than 30 feet on both sides of the water resource as measured from top of bank.
 2. 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 15 feet on both sides of the water resource as measured from top of bank.
 3. 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:
1. Locations of state waters, wetlands, floodplain boundaries and other natural features as determined by field surveys.
 2. Shape, size, topography, slope, soils, vegetation and other physical characteristics of the property.
 3. Location and extent of buffer intrusion.
 4. 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.
 5. 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).
 6. The current condition of the existing buffer, to be determined by:
 - a. The extent to which existing buffer vegetation is disturbed;
 - b. The hydrologic function of the buffer; and water resource characteristics such as bank vegetative cover, bank stability, prior channel alteration or sediment deposition.
 - c. The extent to which the encroachment into the buffer may reasonably impair buffer functions.
 7. 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.
 8. The long-term water quality impacts of the proposed variance, as well as the construction impacts.
 - a. 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.

- b. 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.
9. 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.

(Ord. No. 3542, 2-16-2016)

Sec. 18-507. - 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 18-505 and 18-514 of this chapter 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:
 - 1. Water line flushing or other potable water sources;
 - 2. Irrigation or lawn watering with potable water;
 - 3. Diverted stream flows;
 - 4. Rising ground water;
 - 5. Groundwater infiltration to storm drains, infiltration does not include sanitary sewer inflow;
 - 6. Pumped groundwater;
 - 7. Foundation or footing drains;
 - 8. Crawl space pumps;
 - 9. Air conditioning condensation;
 - 10. Springs;
 - 11. Individual residential car washing;
 - 12. Natural riparian habitat or wetland flows;
 - 13. Firefighting activities;
 - 14. Discharges specified in writing by the program as being necessary to protect public health and safety;
 - 15. Dye testing is an allowable discharge if the program has so specified in writing;
 - 16. Discharges authorized by the construction general permit (CGP), as amended, latest edition:
 - a. Dewatering of work areas of collected stormwater and ground water (filtering or chemical treatment may be necessary prior to discharge);
 - b. 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;
 - c. Water used to control dust in accordance with CGP, as amended, latest edition;
 - d. Potable water sources including waterline flushing from which chlorine has been removed to the maximum extent practicable;
 - e. Routine external building wash-down that does not use detergents or other chemicals;
 - f. Uncontaminated groundwater or spring water; and
 - g. 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 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 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 chapter, 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.

(Ord. No. 3542, 2-16-2016)

Sec. 18-508. - 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 chapter. 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 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 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:
 - 1. Comply forthwith; or
 - 2. 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.

(Ord. No. 3542, 2-16-2016)

Sec. 18-509. - 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.*
 - (a) *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 \$25.00 nor more than \$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.
 - (b) 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 \$50.00 and not more than \$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 chapter, 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 chapter.
- (5) *Referral to TDEC.* Where the city has used enforcement to achieve compliance with this chapter, 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 or more of the remedies set forth herein has been sought or granted.

([Ord. No. 3542, 2-16-2016](#))

Sec. 18-510. - 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 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:
 - 1. The matter under dispute has been handled correctly by the staff under the applicable rules and procedures of the stormwater program.
 - 2. 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 1. and 2. 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.

([Ord. No. 3542, 2-16-2016](#))

Sec. 18-511. - Stormwater violations appeals board.

- (1) *Established.* There is hereby established a board of three members to be known as the "stormwater violations appeals board."
- (2) *Composition; terms; filling vacancies.*
 - (a) The three members of the board shall initially be appointed by the city council for staggered terms of one to three years, subject to the approval of the city council with terms after the initial appointments being for three years. Members shall not serve more than two consecutive three 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:
 1. 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 chapter;
 2. A representative of an industrial or commercial establishment that is regulated by this chapter;
 3. A representative of the building or contracting industry that is regulated by this chapter;
 - (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 until his successor takes office.
 - (d) If any member of the board misses two 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 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 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 chapter, 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 chapter;

- (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 chapter due to violation or other enforcement action;
 - (d) To hold such other hearings as may be required in the administration of this chapter; and
 - (e) To make such determinations and issue such orders as may be necessary to effectuate the purposes of this chapter.
- (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 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 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 chapter 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 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.

(Ord. No. 3542, 2-16-2016)

Sec. 18-512. - 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 chapter;
 - (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 chapter.
- (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 chapter. 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. Effective June 21, 2011, the stormwater rate is two dollars and fifty cents (\$2.50) per ERU.
- (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 chapter 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 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 chapter 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 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 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.

(Ord. No. 3542, 2-16-2016)

Sec. 18-513. - 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:
 1. *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.
 2. *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.
 3. *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.
 4. *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.

5. *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.

(Ord. No. 3542, 2-16-2016)

Sec. 18-514. - 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 chapter 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 chapter, 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 chapter 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 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 18-510 and 18-511 of this chapter.

(Ord. No. 3542, 2-16-2016)”

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

PASSED ON FIRST READING THIS THE 20TH DAY OF JUNE 2017.

MAYOR

ATTEST:

CITY ADMINISTRATOR

PASSED ON SECOND AND FINAL READING THIS THE 18TH DAY OF JULY 2017.

MAYOR

ATTEST:

CITY ADMINISTRATOR

RESOLUTION NO. _____
A RESOLUTION AUTHORIZING THE CITY OF MORRISTOWN TO PARTICIPATE IN The Pool's "*Safety Partners*" Matching Grant Program.

WHEREAS, the safety and well being of the employees of the City of Morristown is of the greatest importance; and

WHEREAS, all efforts shall be made to provide a safe and hazard-free workplace for the City of Morristown employees; and

WHEREAS, The Pool seeks to encourage the establishment of a safe workplace by offering a "*Safety Partners*" Matching Grant Program; and

WHEREAS, the City of Morristown now seeks to participate in this important program.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MORRISTOWN, TENNESSEE the following:

SECTION 1. That the City of Morristown is hereby authorized to submit application for a "*Safety Partners*" Matching Grant Program through the Pool.

SECTION 2. That the City of Morristown is further authorized to provide a matching sum to serve as a match for any monies provided by this grant.

Resolved this the 18th day of July in the year of 2017.

MAYOR

ATTEST:

CITY ADMINISTRATOR

ORDINANCE NO. _____,
BEING AN ORDINANCE OF THE CITY COUNCIL OF MORRISTOWN,
TENNESSEE AMENDING TITLE 3, CHAPTER 1 OF THE
MORRISTOWN MUNICIPAL CODE.

Be it ordained by the City Council for the City of Morristown that pursuant to Public Chapter 750 which amended Tennessee Code Annotated §55-10-207 by authorizing electronic citations to be filed in court, including the assessment of a fee to recover costs associated with these citations, the text of Title 3, Chapter 1 of the Morristown Municipal Code is amended by adding the following section:

“3-113. Electronic citation regulations and fees.

(a) As used in this section, “electronic citation” means a written citation or an electronic citation prepared by a law enforcement officer on paper or on an electronic data device with the intent the citation shall be filed, electronically or otherwise, with a court having jurisdiction over the alleged offense.

(b) Pursuant to and in accordance with state statutory requirements found in Tennessee Code Annotated §55-10-207(e), each court clerk shall charge and collect an electronic citation fee of five dollars (\$5.00) for each citation which results in a conviction.

(c) Pursuant to Tennessee Code Annotated §55-10-207, this electronic citation fee and this Section of the Morristown Municipal Code shall terminate five (5) years from the date of adoption. Specifically, this ordinance shall be in effect from August 1, 2017 until August 1, 2022.

(d) The statutory requirements and provisions contained in Tennessee Code Annotated §55-10-207 concerning the electronic citations and fees shall be incorporated by reference.”

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

PASSED ON FIRST READING THIS _____ DAY OF _____, 2017.

MAYOR

ATTEST:

CITY ADMINISTRATOR

PASSED ON SECOND AND FINAL READING THIS _____ DAY OF _____, 2017.

MAYOR

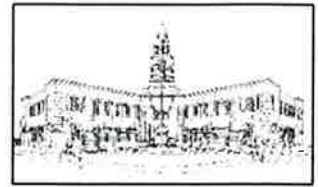
ATTEST:

CITY ADMINISTRATOR

City of Morristown

Incorporated 1855

DEPARTMENT OF COMMUNITY DEVELOPMENT & PLANNING



TO: City Council
FROM: Lori Matthews, Senior Planner
DATE: July 18th, 2017
SUBJECT: **Zoning Text Amendment Changes - Motor Vehicle Sales**

The Planning Department has been on the receiving end of numerous complaints throughout the course of the last couple of years with regard to motor vehicle sales lots. Displays of the sales stock is being placed within sidewalks and City street rights-of-way which blocks the view of on-coming traffic. Customer parking is being utilized for display areas forcing customers to park on the street. Sales lots are so congested that emergency vehicles (or potential customers) have no means by which to traverse the lot due to inadequate travel aisles. No consideration is given to pedestrians crossing major arterials to adjoining sales lots.

According to Tennessee state records, the City of Morristown has within its corporate limits over 50 motor vehicle sales dealer. The State differentiates between recreational motor vehicles and cars/trucks but no distinction is made between new or used vehicles. Motor vehicle dealerships must register and meet State of Tennessee requirements as do their sales personnel. Certain financial and site location criteria must be met in order to obtain this license from the State such as carrying insurance, being able to house a minimum of 18 vehicles and obtaining a zoning verification letter from the local municipality.

After researching the problems, Staff has determined that changes to zoning requirements are needed with regard to motor vehicle sales and their accessory repair facilities. Most of the amendments being proposed are duplicated from existing State requirements and current City zoning code which can at times, be vague. The ability to enforce is enhanced as well when regulations are clarified and strengthened.

Currently, motor vehicle sales are allowed by right within our CBD (Central Business District) and IB (Intermediate Business) districts. Staff is recommending that vehicle sales be deleted as a use by right and allowed only with use on review approval by the Board of Zoning Appeals. A site plan to meet the minimum criteria as set forth in Section 14-1903 APPROVAL OF PLANS AND ISSUANCE OF BUILDING PERMIT will be required as part of the use on review application.

Congestion in car sales repair center



[Return to Agenda](#)



City sidewalk used for display storage



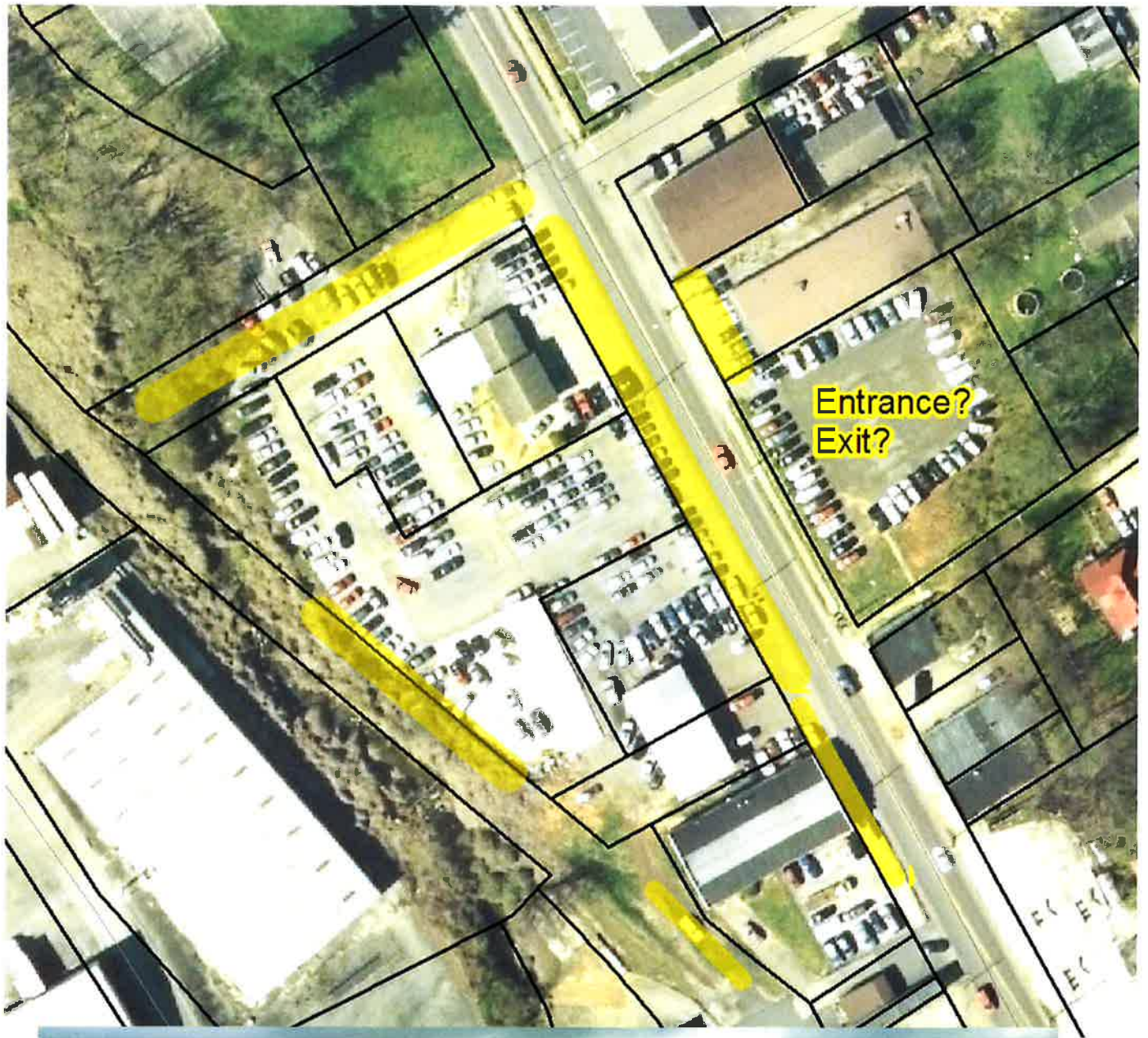
Display stock? Or junked cars?



Inoperable vehicles outnumber sales stock



Vehicles in public right of way



[Return to Agenda](#)

14-1101. CB CENTRAL BUSINESS DISTRICT

14-1102. USES PERMITTED

1. Accessory structures/buildings.
2. Appliance Stores.
3. Architects' and Artists' Studios.
4. Architectural Offices.
5. Automobile Detailing/Car Wash.
6. Automobile Parts Store. (2649-10/01/1991)
7. Automobile Rental Agencies. (2716-10/19/1993)
- 8. Automobile Sales Agencies (New and Used)**

14-1003. USES PERMITTED ON REVIEW (3227-08/02/2005) CENTRAL BUSINESS DISTRICT

2. Amusement Enterprise. (3502-06/17/2014)
3. Animal Clinics and/or Hospitals.
4. Automobile Repair Shops
5. Automobile Sales:
 - a. A site plan shall be submitted *to meet requirements as put forth in Section 14-1903 APPROVAL OF PLANS AND ISSUANCE OF BUILDING PERMIT. Traffic aisles shall meet the requirements as stated under Chapter 2, Section 14-203 Definition of Parking Aisle for one way and two way traffic. All plans will include access as required by the Morristown Fire Department for emergency vehicles.
 - b. In addition to parking as required for in Section 14-216-3.e, a minimum of three (3) customer spaces must be provided for and identified; a minimum of fifteen (15) parking stalls must be provided for sales stock. All parking shall meet the specifications of Section 14-216-2 requiring parking stalls to be 9.5 feet by 18 feet in size.
 - c. Automobiles displayed along property lines must include a Staff approved physical barrier. New development sites require a 10 foot grassed strip along property lines which front rights-of-way. Existing or redeveloped sites may choose this option or provide a smaller grassed strip with barriers such as chain and bollard or wheelstops to prevent vehicles from encroaching into rights of way and/or prevent overlap onto adjacent properties. Either method will be shown on the site plan.
 - d. All parking to include sales stock shall be composed of a hard surface material as stipulated under Section 14-216.4 and Section 14-203.209 of the Zoning Ordinance unless granted a variance by the Planning Commission.

14-1001. IB INTERMEDIATE BUSINESS DISTRICT

14-1002. USES PERMITTED (3227-08/02/2005)

1. Accessory structures/buildings.
2. Appliance Stores.
3. Architects' and Artists' Studios.
4. Architectural Offices.
5. Automobile Detailing/Car Wash.
6. Automobile Parts Store. (2649-10/01/1991)
7. Automobile Rental Agencies. (2716-10/19/1993)
- 8. Automobile Sales Agencies (New and Used).**

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3. Animal Clinics and/or Hospitals.
4. Automobile Repair Shops
5. Automobile Sales:
 - a. A site plan shall be submitted *to meet requirements as put forth in Section 14-1903 APPROVAL OF PLANS AND ISSUANCE OF BUILDING PERMIT. Traffic aisles shall meet the requirements as stated under Chapter 2, Section 14-203 Definition of Parking Aisle for one way and two way traffic. All plans will include access as required by the Morristown Fire Department for emergency vehicles.
 - b. In addition to parking as required for in Section 14-216-3.e, a minimum of three (3) customer spaces must be provided for and identified; a minimum of fifteen (15) parking stalls must be provided for sales stock. All parking shall meet the specifications of Section 14-216-2 requiring parking stalls to be 9.5 feet by 18 feet in size.
 - c. Automobiles displayed along property lines must include a Staff approved physical barrier. New development sites require a 10 foot grassed strip along property lines which front rights-of-way. Existing or redeveloped sites may choose this option or provide a smaller grassed strip with barriers such as chain and bollard or wheelstops to prevent vehicles from encroaching into rights of way and/or prevent overlap onto adjacent properties. Either method will be shown on the site plan.
 - d. All parking to include sales stock shall be composed of a hard surface material as stipulated under Section 14-216.4 and Section 14-203.209 of the Zoning Ordinance unless granted a variance by the Planning Commission.

The Morristown Regional Planning Commission at their regular meeting on July 11th 2017 voted unanimously to forward the above zoning changes to City Council for approval provided minimum requirements for a site plan was clarified.

(*Added at the behest of Planning Commission)

CITY COUNCIL OPTIONS:

1. Approve zoning text changes as submitted and set a public hearing;
2. Approve zoning text changes with stipulations and set a public hearing;
3. Deny approval of zoning text changes;
4. Table request.

ORDINANCE NO. _____

BEING AN ORDINANCE OF THE CITY COUNCIL OF MORRISTOWN, TENNESSEE AMENDING TITLE 14 (ZONING AND LAND USE CONTROL), DELETING THE PERMITTED USE OF AUTOMOBILE SALES AGENCIES, NEW AND USED FROM CHAPTER 10, SECTION 14-1002 AND FROM CHAPTER 11, SECTION 14-1102; AND BY ADDING SAID USE WITH CONDITIONS TO CHAPTER 10, SECTION 14-1003 AND TO CHAPTER 11, SECTION 14-1103;

BE IT ORDAINED BY THE CITY COUNCIL of the City of Morristown that the text of Title 14 (Zoning and Land Use Control), Chapter 10 and 11 be reapproved with the below described changes:

14-1002. USES PERMITTED (3227-08/02/2005)

~~1. —Automobile Sales Agencies.(New and Used)~~

14-1003. USES PERMITTED ON REVIEW.

1. Automobile Sales with the following conditions:

- a. A site plan shall be submitted to meet requirements as put forth in Section 14-1903 APPROVAL OF PLANS AND ISSUANCE OF BUILDING PERMIT. Traffic aisles shall meet the requirements as stated under Chapter 2, Section 14-203 Definition of Parking Aisle for one way and two way traffic. All plans will include access as required by the Morristown Fire Department for emergency vehicles.
- b. In addition to parking as required for in Section 14-216-3.e, a minimum of three (3) customer spaces must be provided for and identified; a minimum of fifteen (15) parking stalls must be provided for sales stock. All parking shall meet the specifications of Section 14-216-2 requiring parking stalls to be 9.5 feet by 18 feet in size.
- c. Automobiles displayed along property lines must include a Staff approved physical barrier. New development sites require a 10 foot grassed strip along property lines which front rights-of-way. Existing or redeveloped sites may choose this option or provide a smaller grassed strip with barriers such as chain and bollard or wheelstops to prevent vehicles from encroaching into rights of way and/or prevent overlap onto adjacent properties. Either method will be shown on the site plan.
- d. All parking to include sales stock shall be composed of a hard surface material as stipulated under Section 14-216.4 and Section 14-203.209 of the Zoning Ordinance unless granted a variance by the Planning Commission.

14-1102. USES PERMITTED

~~2. —Automobile Sales Agencies. (New and Used)~~

14-1103. USES PERMITTED ON REVIEW.

2. Automobile Sales with the following conditions:

- a. A site plan shall be submitted to meet requirements as put forth in Section 14-1903 APPROVAL OF PLANS AND ISSUANCE OF BUILDING PERMIT. Traffic aisles shall meet the requirements as stated under Chapter 2, Section 14-203 Definition of Parking Aisle for one way and two way traffic. All plans will include access as required by the Morristown Fire Department for emergency vehicles.
- b. In addition to parking as required for in Section 14-216-3.e, a minimum of three (3) customer spaces must be provided for and identified; a minimum of fifteen (15) parking stalls must

- c. be provided for sales stock. All parking shall meet the specifications of Section 14-216-2 requiring parking stalls to be 9.5 feet by 18 feet in size.
- d. Automobiles displayed along property lines must include a Staff approved physical barrier. New development sites require a 10 foot grassed strip along property lines which front rights-of-way. Existing or redeveloped sites may choose this option or provide a smaller grassed strip with barriers such as chain and bollard or wheelstops to prevent vehicles from encroaching into rights of way and/or prevent overlap onto adjacent properties. Either method will be shown on the site plan.
- e. All parking to include sales stock shall be composed of a hard surface material as stipulated under Section 14-216.4 and Section 14-203.209 of the Zoning Ordinance unless granted a variance by the Planning Commission.

BE IT FURTHER ORDAINED that this ordinance shall take effect from and after the date of its final passage, the public welfare requiring it.

Passed on first reading the _____ day of _____, 2017.

Mayor

ATTEST:

City Administrator

Passed on second and final reading the _____ day of _____, 2017.

Mayor

ATTEST:

City Administrator

ORDINANCE NO. _____

BEING AN ORDINANCE OF THE CITY COUNCIL OF MORRISTOWN, TENNESSEE AMENDING TITLE 14 (ZONING AND LAND USE CONTROL), DELETING THE PERMITTED USE OF AUTOMOBILE SALES AGENCIES, NEW AND USED FROM CHAPTER 10, SECTION 14-1002 AND FROM CHAPTER 11, SECTION 14-1102; AND BY ADDING SAID USE WITH CONDITIONS TO CHAPTER 10, SECTION 14-1003 AND TO CHAPTER 11, SECTION 14-1103;

BE IT ORDAINED BY THE CITY COUNCIL of the City of Morristown that the text of Title 14 (Zoning and Land Use Control), Chapter 10, Section 14-1002 and Section 14-1102 be reapproved with the following use deleted:

8. Automobile Sales Agencies. (New and Used)

BE IT FURTHER ORDAINED BY THE CITY COUNCIL of the City of Morristown that the text of Title 14 (Zoning and Land Use Control), Chapter 10, Section 14-1003 and Chapter 11, Section 14-1103 be reapproved to contain the following use on review:

5. Automobile Sales with the following conditions:

- a. A site plan shall be submitted to meet requirements as put forth in Section 14-1903 APPROVAL OF PLANS AND ISSUANCE OF BUILDING PERMIT. Traffic aisles shall meet the requirements as stated under Chapter 2, Section 14-203 Definition of Parking Aisle for one way and two way traffic. All plans will include access as required by the Morristown Fire Department for emergency vehicles.
- b. In addition to parking as required for in Section 14-216-3.e, a minimum of three (3) customer spaces must be provided for and identified; a minimum of fifteen (15) parking stalls must be provided for sales stock. All parking shall meet the specifications of Section 14-216-2 requiring parking stalls to be 9.5 feet by 18 feet in size.
- c. Automobiles displayed along property lines must include a Staff approved physical barrier. New development sites require a 10 foot grassed strip along property lines which front rights-of-way. Existing or redeveloped sites may choose this option or provide a smaller grassed strip with barriers such as chain and bollard or wheelstops to prevent vehicles from encroaching into rights of way and/or prevent overlap onto adjacent properties. Either method will be shown on the site plan.
- d. All parking to include sales stock shall be composed of a hard surface material as stipulated under Section 14-216.4 and Section 14-203.209 of the Zoning Ordinance unless granted a variance by the Planning Commission.

BE IT FURTHER ORDAINED that this ordinance shall take effect from and after the date of its final passage, the public welfare requiring it.

Passed on first reading the _____ day of _____, 2016.

Mayor

ATTEST:

City Administrator

Passed on second and final reading the _____ day of _____, 2017.

Mayor

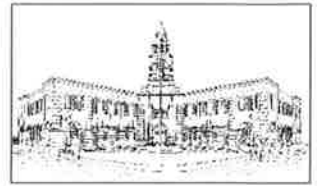
ATTEST:

City Administrator

City of Morristown

Incorporated 1855

DEPARTMENT OF COMMUNITY DEVELOPMENT & PLANNING



TO: Morristown City Commission
FROM: Steve Neilson, Planning Director *SN*
DATE: July 18, 2017
SUBJECT: Zoning Text Amendment-Home Occupations

BACKGROUND

This is a proposed text amendment to Section 14-228. HOME OCCUPATIONS. Under the current Zoning Ordinance, all home occupations are required to go before the Board of Zoning Appeals (BZA) as a Use on Review. Staff has found that taking a home occupation to the BZA can add considerable time to the review process often delaying the opening of home businesses. Depending on the date the application is received, it can add almost a month to the review process. If the home occupation is approved at staff level, the applicant can often be approved the same day.

Reviewing ordinances from larger communities in East Tennessee within Morristown's general population range, staff found that Morristown is the only municipality that takes home occupations to the BZA for approval. Reviewing home occupations at the staff level would not only save the applicant time, allowing them to open their business sooner, but it would also save them the required \$50 Use on Review application fee.

However, a number of Board members are concerned about the impact of certain home occupations on surrounding residential properties. Those home occupations such as beauty shops where people are coming to the home on a regular basis have a much greater impact on the neighboring properties than those uses where no one comes to the home. Several BZA members expressed that it was important for the surrounding properties to be informed of these higher impact home occupations.

The proposed text amendment attempts to address these concerns by setting up a two-tier system. Those home occupations where no one comes to the home (such as an internet business) would be a Permitted Use approved administratively by staff and those home occupations where people (employees, clients, or students) come to the home would remain a Use on Review requiring the BZA approval and notification to surrounding property owners.

The Planning Commission voted 8 to 0 to recommend approval of the proposed text amendments.

RECOMMENDATION

Staff recommends approval of the proposed text amendments.

14-228. HOME OCCUPATION (3341-09/18/2008)

1. A Home Occupation Permit is required ~~prior to the usage of any residential structure as a Home Occupation in accordance with the provisions herein; the only exclusion to this requirement are those businesses in which all of the following apply:~~ for any business requiring a State Business license which is conducted within the premise of any occupied domicile or accessory structure.
 - ~~a. do not require a business license;~~
 - a. do not generate any additional traffic to the premises,
 - b. do not advertise the business with any sign on the premises,
 - c. do not utilize any employees that are not full-time residents of the domicile,
 - d. do not store any materials outside the principal residential structure,
 - e. do not involve any on-site retail sales or professional services open to the public;
2. An applicant for a home occupation permit shall submit an application to the ~~Board of Zoning Appeals~~ Planning Staff in a form as required by the city administrator or his assignee along with the required fee for a home occupation permit as approved by City Council.
3. ~~The Board of Zoning Appeals may issue a home occupation permit when the application is found to comply with the following criteria:~~ A home occupation must comply with the following criteria:
 - a. The applicant(s) shall demonstrate that the location for the home occupation is their principal domicile,
 - b. If the applicant is not the property owner, the property owner shall also sign the Home Occupation application indicating they support the proposed use.
 - c. Not more than 25% of the gross floor area or 500 square feet, whichever is less, of the principal domicile or any accessory structure shall be used for the home occupation, including the storage of any materials or products related to the home occupation.
 - d. No more than one employee affiliated with the home occupation who is not a permanent resident of the dwelling unit shall be employed at the site of the home occupation.
 - e. No more than one home occupation may be permitted per dwelling unit.
 - f. Products or materials shall not be visible on the premises from any street or sidewalk adjacent to the property on which the home occupation is situated.
 - g. A home occupation shall be limited to one, wall-mounted sign, mounted flatly against the structure, that shall not exceed two (2) square feet in size and such sign shall not have lights, be illuminated, flash, glimmer, flutter, or have movement by any electronic, wind or other means.
 - h. There shall be no significant increase in the use of utilities such as water, sewer, gas, garbage or electricity that would indicate the usage of the property other than the use for residential purposes.
 - i. There shall be no external storage of materials incidental to the home occupation.
 - j. No equipment or process associated with the home occupation shall generate noise, vibration, smoke, dust, glare, electrical interference, odors, fumes or other objectionable effect detectable to the normal senses beyond the property lines of the lot on which the business is situated, or if within a multi-family structure, beyond the confines of the individual dwelling unit.
 - k. Off-street parking shall be provided on the premises in sufficient quantity to accommodate all residents of the domicile, delivery vehicles, employees, clients, customers, students, visitors, etc. affiliated with the residence and the home occupation.
 - l. No activity related to the home occupation shall be permitted outdoors on the property.
 - m. No new construction or alterations to any existing structure on the site shall be made to indicate from the exterior that the buildings are being used for other than residential purposes.
 - n. There shall be no group instruction in connection with the home occupation. For the purposes of this subsection, instruction shall be group instruction if it involves more than two (2) students at any time.

- o. There shall be no group assembly involved with the home occupation.
 - p. Deliveries to the premises shall be consistent with the intent and purpose of maintaining the residential character of the neighborhood and shall not exceed two business deliveries between the hours of 8:00 a.m. and 6:00 p.m. to the premises per day.
 - q. One (1) commercial vehicle (one and one-half ton or less in size) owned by the residents of the domicile may be used in conjunction with the home occupation. The vehicle will be deemed in use for the home occupation if it advertises the home occupation and/or contains or stores materials including stock, wares, goods, samples or equipment. Such vehicle shall be stored in a garage or building or shall be concealed so as not to be visible from the street or sidewalk adjacent to the premises when it is parked at the residence.
 - r. No earth moving equipment or heavy construction or hauling equipment or building materials shall be allowed on the premises.
 - s. The Board of Zoning Appeals, when considering a permit for a home occupation, may render additional requirements specific to a particular application as it may deem necessary to protect the intent and purpose of maintaining the residential character of the neighborhood in which the application is being sought.
 - t. Home Occupation permits shall not be transferrable. A new home owner, property owner, descendant, heir or individual other than that to whom the Board of Zoning Appeals issues a home occupation permit shall be required to apply for a new home occupation permit.
 - u. The applicant(s) shall have signed a notarized Affidavit of Zoning Compliance for a Home Occupation, Section 14-228 Zoning Ordinance of the City of City of Morristown stating their agreement to comply with the standards set forth herein.
4. An applicant for a home occupation permit which involves the above listed criteria and involves employees, clients, or students must be approved by the Board of Zoning Appeals. All other home occupation permits may be approved administratively by Staff.
5. The holder of a home occupation permit is required to continuously comply with all conditions of its issuance or suffer revocation as provided below:
- a. A home occupation permit shall be revoked when it is determined that the conditions of its issuance are not being met.
 - b. The permit holder of the home occupation shall be notified in writing that the conditions of its issuance are not being met with the specific infractions noted.
 - c. The permit holder of the home occupation shall be given ten (10) calendar days from the postmark of written notification of non-compliance to contact the city to resolve the issue of non-compliance. Should the issue not be resolved, the City Administrator or his assignee shall notify the permit holder that the Home Occupation Permit has been revoked and all business activities associated with the home occupation shall terminate immediately upon receipt of the notice.
6. Appeals to the revocation of a home occupation permit shall be made in writing to the Board of Zoning Appeals within seven (7) calendar days of the date of the revocation notice. A timely filed appeal shall result in the revocation action being held in abeyance pending the hearing by the Board of Zoning Appeals.
- a. A notice of application for appeal shall be posted by the city on the applicable property.

- b. A public notice shall be published in a newspaper of general circulation advertising the nature of the appeal and the date, time and location at which the Board of Zoning Appeals shall consider the issue.
- c. An appeal hearing before the Board of Zoning Appeals shall be limited to the issue of whether the applicant complies with the criteria to be issued a home occupation permit or whether a permit holder continuously meets the criteria required for the issuance of a home occupation permit.
- d. The Board of Zoning Appeals shall not grant a variance from the established criteria for the issuance of a home occupation permit.
- e. The Board of Zoning Appeals shall not hear an appeal that is not timely filed as provided in this Section.

14-301. SINGLE FAMILY RESIDENTIAL DISTRICT (R1)

14-302. USES PERMITTED

- 6. Home Occupation with no additional employees, clients or students.

14-303. USES PERMITTED ON REVIEW

- 5. Home Occupation involving employees, clients and students.

14-401. RP-1 PLANNED RESIDENTIAL DEVELOPMENT DISTRICT

14-4A02. USES PERMITTED

- 7. Home Occupations require Board of Zoning Appeals approval.

14-4A01. RD-1 MODERATE DENSITY SINGLE FAMILY RESIDENTIAL DISTRICT

14-4A02. USES PERMITTED

Any use permitted and as regulated in the R-1 Single Family Residential District to include Home Occupations not involving employees, clients and students.

14-4A03. USES PERMITTED ON REVIEW

- 3. Home Occupation involving employees, clients and students.

14-501. RD-2 MODERATE DENSITY RESIDENTIAL DISTRICT

14-502. USES PERMITTED

- 4. Home Occupations not involving employees, clients and students.

14-503. USES PERMITTED ON REVIEW

- 3. Home Occupation involving employees, clients and students.

14-601. R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT

14-602. USES PERMITTED

- 2. Home Occupations not involving employees, clients and students.

14-603. USES PERMITTED ON REVIEW

4. Home Occupation involving employees, clients and students.

14-701. R-3 HIGH DENSITY RESIDENTIAL DISTRICT

14-702. USES PERMITTED

1. Any use permitted and as regulated in the R-1 and R-2 Residential Districts. to include Home Occupations not involving employees, clients and students.

14-703. USES PERMITTED ON REVIEW

1. Any use permitted and as regulated in the R-1 and R-2 Residential Districts to include Home Occupations involving employees, clients and students.

14-1505 (MHP) MOBILE HOME PARK DISTRICT

14-1505. GENERAL REQUIREMENTS

- k. Home Occupations require Board of Zoning Appeals approval.

14-2501. MIXED USE (RESIDENTIAL AND COMMERCIAL USES) DISTRICT (MUD)

14-2503. USES PERMITTED

- ~~10. Customary Home Occupations.~~

14-8B01. OMP-R OFFICE, MEDICAL AND PROFESSIONAL-RESTRICTED DISTRICT

14-8B03. USES PERMITTED ON REVIEW

- ~~9. Home Occupation.~~

14-801. OMP OFFICE, MEDICAL AND PROFESSIONAL DISTRICT

14-803. USES PERMITTED ON REVIEW

- ~~19. Home Occupation.~~

14-1001. IB INTERMEDIATE BUSINESS DISTRICT

14-1003. USES PERMITTED ON REVIEW (3227-08/02/2005)

- ~~17. Home Occupation.~~

14-1101. CB CENTRAL BUSINESS DISTRICT

14-1103. USES PERMITTED ON REVIEW

- ~~17. Home Occupation.~~

**ORDINANCE NO. _____
BEING AN ORDINANCE OF THE CITY COUNCIL OF
MORRISTOWN, TENNESSEE AMENDING TITLE 14 (ZONING
AND LAND USE CONTROL), OF THE MORRISTOWN
MUNICIPAL CODE.**

BE IT ORDAINED BY THE CITY COUNCIL of the City of Morristown that the text of Title 14 (Zoning and Land Use Control), Chapter 2, Chapter 3, Chapter 4, Chapter 5, Chapter 6, Chapter 7, Chapter 8, Chapter 10, and Chapter 11, regarding home occupations be amended to states:

14-228. HOME OCCUPATION (3341-09/18/2008)

1. A Home Occupation Permit is required for any business requiring a State Business license which is conducted within the premise of any occupied domicile or accessory structure.
 - a. do not generate any additional traffic to the premises,
 - b. do not advertise the business with any sign on the premises,
 - c. do not utilize any employees that are not full-time residents of the domicile,
 - d. do not store any materials outside the principal residential structure,
 - e. do not involve any on-site retail sales or professional services open to the public.
2. An applicant for a home occupation permit shall submit an application to the Planning Staff in a form as required by the city administrator or his assignee along with the required fee for a home occupation permit as approved by City Council.
3. A home occupation must comply with the following criteria:
 - a. The applicant(s) shall demonstrate that the location for the home occupation is their principal domicile,
 - b. If the applicant for the home occupation is not the property owner, the property owner shall also sign the Home Occupation application indicating they support the proposed use.
 - c. Not more than 25% of the gross floor area or 500 square feet, whichever is less, of the principal domicile or any accessory structure shall be used for the home occupation, including the storage of any materials or products related to the home occupation.
 - d. No more than one employee affiliated with the home occupation who is not a permanent resident of the dwelling unit shall be employed at the site of the home occupation.
 - e. No more than one home occupation may be permitted per dwelling unit.
 - f. Products or materials shall not be visible on the premises from any street or sidewalk adjacent to the property on which the home occupation is situated.

- g. A home occupation shall be limited to one, wall-mounted sign, mounted flatly against the structure, that shall not exceed two (2) square feet in size and such sign shall not have lights, be illuminated, flash, glimmer, flutter, or have movement by any electronic, wind or other means.
- h. There shall be no significant increase in the use of utilities such as water, sewer, gas, garbage or electricity that would indicate the usage of the property other than the use for residential purposes.
- i. There shall be no external storage of materials incidental to the home occupation.
- j. No equipment or process associated with the home occupation shall generate noise, vibration, smoke, dust, glare, electrical interference, odors, fumes or other objectionable effect detectable to the normal senses beyond the property lines of the lot on which the business is situated, or if within a multi-family structure, beyond the confines of the individual dwelling unit.
- k. Off-street parking shall be provided on the premises in sufficient quantity to accommodate all residents of the domicile, delivery vehicles, employees, clients, customers, students, visitors, etc. affiliated with the residence and the home occupation.
- l. No activity related to the home occupation shall be permitted outdoors on the property.
- m. No new construction or alterations to any existing structure on the site shall be made to indicate from the exterior that the buildings are being used for other than residential purposes.
- n. There shall be no group instruction in connection with the home occupation. For the purposes of this subsection, instruction shall be group instruction if it involves more than two (2) students at any time.
- o. There shall be no group assembly involved with the home occupation.
- p. Deliveries to the premises shall be consistent with the intent and purpose of maintaining the residential character of the neighborhood and shall not exceed two business deliveries between the hours of 8:00 a.m. and 6:00 p.m. to the premises per day.
- q. One (1) commercial vehicle (one and one-half ton or less in size) owned by the residents of the domicile may be used in conjunction with the home occupation. The vehicle will be deemed in use for the home occupation if it advertises the home occupation and/or contains or stores materials including stock, wares, goods, samples or equipment. Such vehicle shall be stored in a garage or building or shall be concealed so as not to be visible from the street or sidewalk adjacent to the premises when it is parked at the residence.
- r. No earth moving equipment or heavy construction or hauling equipment or building materials shall be allowed on the premises.

- s. The Board of Zoning Appeals, when considering a permit for a home occupation, may render additional requirements specific to a particular application as it may deem necessary to protect the intent and purpose of maintaining the residential character of the neighborhood in which the application is being sought.
 - t. Home Occupation permits shall not be transferrable. A new home owner, property owner, descendant, heir or individual other than that to whom the Board of Zoning Appeals issues a home occupation permit shall be required to apply for a new home occupation permit.
 - u. The applicant(s) shall have signed a notarized Affidavit of Zoning Compliance for a Home Occupation, Section 14-228 Zoning Ordinance of the City of City of Morristown stating their agreement to comply with the standards set forth herein.
4. An applicant for a home occupation permit which involves the above listed criteria and involves employees, clients, or students must be approved by the Board of Zoning Appeals. All other home occupation permits may be approved administratively by Staff.
5. The holder of a home occupation permit is required to continuously comply with all conditions of its issuance or suffer revocation as provided below:
- a. A home occupation permit shall be revoked when it is determined that the conditions of its issuance are not being met.
 - b. The permit holder of the home occupation shall be notified in writing that the conditions of its issuance are not being met with the specific infractions noted.
 - c. The permit holder of the home occupation shall be given ten (10) calendar days from the postmark of written notification of non-compliance to contact the city to resolve the issue of non-compliance. Should the issue not be resolved, the City Administrator or his assignee shall notify the permit holder that the Home Occupation Permit has been revoked and all business activities associated with the home occupation shall terminate immediately upon receipt of the notice.
6. Appeals to the revocation of a home occupation permit shall be made in writing to the Board of Zoning Appeals within seven (7) calendar days of the date of the revocation notice. A timely filed appeal shall result in the revocation action being held in abeyance pending the hearing by the Board of Zoning Appeals.
- a. A notice of application for appeal shall be posted by the city on the applicable property.

- b. A public notice shall be published in a newspaper of general circulation advertising the nature of the appeal and the date, time and location at which the Board of Zoning Appeals shall consider the issue.
- c. An appeal hearing before the Board of Zoning Appeals shall be limited to the issue of whether the applicant complies with the criteria to be issued a home occupation permit or whether a permit holder continuously meets the criteria required for the issuance of a home occupation permit.
- d. The Board of Zoning Appeals shall not grant a variance from the established criteria for the issuance of a home occupation permit.
- e. The Board of Zoning Appeals shall not hear an appeal that is not timely filed as provided in this Section.

14-301. SINGLE FAMILY RESIDENTIAL DISTRICT (R1)

14-302. USES PERMITTED

- 6. Home Occupation with no additional employees, clients or students.

14-303. USES PERMITTED ON REVIEW

- 5. Home Occupation involving employees, clients and students.

14-401. RP-1 PLANNED RESIDENTIAL DEVELOPMENT DISTRICT

14-4A02. USES PERMITTED

- 7. Home Occupations require Board of Zoning Appeals approval.

14-4A01. RD-1 MODERATE DENSITY SINGLE FAMILY RESIDENTIAL DISTRICT

14-4A02. USES PERMITTED

Any use permitted and as regulated in the R-1 Single Family Residential District to include Home Occupations not involving employees, clients and students.

14-4A03. USES PERMITTED ON REVIEW

- 3. Home Occupation involving employees, clients and students.

14-501. RD-2 MODERATE DENSITY RESIDENTIAL DISTRICT

14-502. USES PERMITTED

4. Home Occupations not involving employees, clients and students.

14-503. USES PERMITTED ON REVIEW

3. Home Occupation involving employees, clients and students.

14-601. R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT

14-602. USES PERMITTED

2. Home Occupations not involving employees, clients and students.

14-603. USES PERMITTED ON REVIEW

4. Home Occupation involving employees, clients and students.

14-701. R-3 HIGH DENSITY RESIDENTIAL DISTRICT

14-702. USES PERMITTED

1. Any use permitted and as regulated in the R-1 and R-2 Residential Districts. to include Home Occupations not involving employees, clients and students.

14-703. USES PERMITTED ON REVIEW

1. Any use permitted and as regulated in the R-1 and R-2 Residential Districts to include Home Occupations involving employees, clients and students.

14-1505. (MHP) MOBILE HOME PARK DISTRICT

14-1505. GENERAL REQUIREMENTS

- k. Home Occupations require Board of Zoning Appeals approval.

The following sections will be deleted:

14-2501. MIXED USE (RESIDENTIAL AND COMMERCIAL USES) DISTRICT (MUD)

14-2503. USES PERMITTED

~~10.— Customary Home Occupations.~~

14-8B01. OMP-R OFFICE, MEDICAL AND PROFESSIONAL-RESTRICTED DISTRICT

14-8B03. USES PERMITTED ON REVIEW

~~9.— Home Occupation.~~

14-801. OMP OFFICE, MEDICAL AND PROFESSIONAL DISTRICT

14-803. USES PERMITTED ON REVIEW

~~19.— Home Occupation.~~

14-1001. IB INTERMEDIATE BUSINESS DISTRICT

14-1003. USES PERMITTED ON REVIEW (3227-08/02/2005)

~~17.— Home Occupation.~~

14-1101. CB CENTRAL BUSINESS DISTRICT

14-1103. USES PERMITTED ON REVIEW

~~17.— Home Occupation.~~

BE IT FURTHER ORDAINED that this ordinance shall take effect from and after the date of its final passage, the public welfare requiring it.

Passed on first reading this the 18th day of July 2017.

Mayor

ATTEST:

City Administrator

Passed on second and final reading this the 1st day of August 2017.

Mayor

ATTEST:

City Administrator

**ORDINANCE NO. _____,
BEING AN ORDINANCE OF THE CITY COUNCIL OF MORRISTOWN,
TENNESSEE REPEALING THE CURRENT ETHICS POLICY AND
REINSTATING THE PRIOR POLICY.**

Be it ordained by the City Council for the City of Morristown that the current Ethics Policy that was adopted by the City on February 21, 2012 is hereby repealed and the previous Ethics Policy adopted by the City on May 16, 2006 shall be reinstated as stated below:

Ethics Policy (Attached)

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

PASSED ON FIRST READING THIS THE 18TH DAY OF JULY 2017.

MAYOR

ATTEST:

CITY ADMINISTRATOR

PASSED ON SECOND AND FINAL READING THIS THE 1ST DAY OF
AUGUST 2017.

MAYOR

ATTEST:

CITY ADMINISTRATOR

“Ethics Policy

SECTION I. Declaration of Policy.

Our government is a representative democracy. Those who are elected, appointed, hired, volunteer or campaign to serve the public as representatives accept a public trust, which they share with those whom they elect, appoint, hire or otherwise enlist to help them serve the public. The public entrusts its power and resources to its servants to use only in the public interest. Public trust requires public servants to fulfill their public duties faithfully and honestly, and to subordinate any personal interest which conflicts with the public interest.

The maintenance of high standards of honesty, integrity, impartiality, and conduct by elected and appointed officials, employees and agents of the City of Morristown, Tennessee is essential to ensure the proper performance of government business and the maintenance of confidence by citizens in their government. The avoidance of misconduct and conflicts of interest on the part of elected and appointed officials, employees and agents of the City of Morristown is indispensable to the maintenance of these standards.

SECTION II. Purposes of Ordinance.

This Ordinance is adopted pursuant to the Tennessee Comprehensive Governmental Ethics Reform Act of 2006:

- (a) to state principles of ethics which are to be applied in public service; and
- (b) to identify minimum standards of ethical conduct for public officials; and
- (c) to require that public officials engage in ethical practices which always meet minimum standards; and
- (d) to encourage public officials to pursue the highest ethical ideals which they can achieve; and
- (e) to provide a process by which public officials may identify and resolve ethical issues; and
- (f) to inform public officials and the public of the minimum standards to which public servants must adhere; and
- (g) to promote public confidence in the integrity of public officials; and

(h) to encourage members of the public to seek public office or employment, to serve on public boards, to assist public officials as volunteers, and to take pride in participating in the governmental process; and

(i) to establish penalties, as appropriate, for public officials who violate the public trust; and

(j) to provide for a just and reasonable balance among the rights of all individuals who are directly affected by the operation of this Ordinance.

NOW, THEREFORE, Be it ordained by the City Council for the City of Morristown, as follows:

SECTION III. The Ordinance.

101. Persons covered. This Ordinance shall apply to any official, whether elected or appointed, officer, employee or servant or any member of any board, agency, commission, authority or corporation (whether compensated or not), or any officer, employee or servant of the City, all collectively referred to herein as “public officials”.

102. Public Official Responsibilities. Each public official of the City of Morristown shall avoid any action, whether or not specifically prohibited by this Ordinance or departmental codes of ethics, which might result in, or create the appearance of:

(i) using public office for private gain;

(ii) unfair or unequal treatment of any citizen;

(iii) impeding government efficiency or economy;

(iv) acting on behalf of the City, unless such person is the Mayor or member of City Council, by making any policy statement or representation, or by promising to authorize or to prevent any future action of any nature, when such public official is not authorized to make such a statement or representation;

(v) conducting City business outside of official channels; or

(vi) affecting adversely the confidence of the public in the integrity of the government.

103. Gifts, Entertainment and Favors. No public official shall solicit or accept, directly or indirectly, on behalf of himself, herself, or any member of the public official's household, any gift, gratuity, service, favor, entertainment, lodging, transportation, loan, guarantee or any other thing of monetary value exceeding an aggregate value of \$50.00 during any twelve month period, from any person who:

- (i) has, or is seeking to obtain, contractual or other business or financial relations with the department or agency of the City of Morristown by which the individual is employed; or
- (ii) conducts operations or activities that are regulated by the department or agency of the City of Morristown by which the employee is employed; or
- (iii) has interests that may be substantially affected by the performances or nonperformance of employee's official duties.

104. Exceptions: Gifts, Entertainment and Favors. The prohibitions on accepting gifts, entertainment or favors in (103) do not apply to:

(i) family members or friends of long standing when the circumstances make it clear that it is the relationship, rather than the business of the persons concerned, which is the motivating factor, and where the value of the gift, entertainment or favor is appropriate to the circumstances and consistent with the parties' historical relationship. If such gift, entertainment or favor exceeds \$50.00 in value, the employee shall disclose the nature and value of the gift, entertainment or favor in a letter to the Finance Director.

(ii) loans from established financial institutions made in the ordinary course of business on usual and customary terms, so long as there are no guarantees or collateral provided by any person described in (103);

(iii) unsolicited advertising material of nominal value;

(iv) food and refreshments of nominal value when they are part of the employee's participation in a charitable, civic, political or community event which bears a relationship to the public official's office and the public official is attending in an official capacity.

A business lunch or dinner is not an "event" for the purposes of this exception. On those occasions, the public official must buy his or her own meal or refreshment. If the meal is held at a private club where the public official may not pay the establishment directly, the public official must reimburse the member of the establishment for the equivalent cost of the meal or refreshment.

(v) lawful campaign contributions made on behalf of elected officials.

105. Conflicts of Interest, Financial Interests.

Conduct of public officials shall be controlled and governed by the provisions of the Tennessee Comprehensive Governmental Ethics Reform Act of 2006, as may, from time to time, be amended. All public officials shall annually submit verified conflict of interest disclosure statements on forms provided by the Personnel Director.

106. Use of Information. No public official of the City of Morristown shall directly or indirectly:

(i) use, disclose, or allow the use of official information which was obtained through or in connection with his or her municipal office or employment, and which has not been made available to the general public, for the purpose of furthering the private interest or personal profit of any person, including the public official; or

(ii) engage in a financial transaction as a result of, or primarily relying upon, information obtained through his or her government office or employment.

107. Use of Government Property. No public official shall use the facilities, equipment, personnel, or supplies of the City of Morristown or its agencies for other than officially approved activities, except to the extent that they are lawfully available to the general public.

108. Questions on Interpretation of this Ordinance. When a public official is in doubt as to the proper interpretation of this Ordinance, he or she is expected to seek the advice of the City Attorney, if time permits, or to use good judgment and to report the gift, entertainment or favor to the Finance Director within 7 days.

109. Departmental Ethics Standards. This Ordinance does not supersede or revoke those portions of any existing departmental or agency policies regarding ethical standards which are stricter than, or cover areas additional to, the standards set out herein.

110. Ethics Guidelines Published by Personnel Director. The personnel director, or his assignee, shall inform each covered public official of the requirements of this Ordinance, shall distribute the Ordinance to covered public officials and have them sign a statement that they have received and read it, and shall modify personnel manuals to incorporate these standards as soon as practicable.

111. Penalties. Violation by any person of this Ordinance shall be punishable as, and subject to criminal and civil penalties as set forth in the Tennessee Comprehensive Governmental Ethics Reform Act of 2006. In addition, violation of this Ordinance may result in any one or combination of the following actions by the governing body: reprimand; suspension; demotion; forfeiture of or removal from office.

112. Indemnification. (i) The City may indemnify an individual against liability incurred, including reasonable legal expenses, who is made a party to a proceeding because the individual is or was a public servant if:

(a) The individual's conduct was in good faith; and

(b) The individual reasonably believed:

(1) In the case of conduct in the individual's official capacity with the City, that the individual's conduct was in its best interest; and

(2) In all other cases, that the individual's conduct was at least not opposed to its best interests; and

(3) In the case of any criminal proceeding, the individual had no reasonable cause to believe the individual's conduct was unlawful.

(ii) The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent is not, of itself, determinative that the public official did not meet the standard of conduct described in this section.

(iii) The City may not indemnify a public official under this section:

(a) In connection with a proceeding by or in the right of the City in which the public official was adjudged liable to the City; or

(b) In connection with any other proceeding charging improper personal benefit to the public official, whether or not involving action in the public official's official capacity, in which the public official was adjudged liable on the basis that the personal benefit was improperly received by the public official.

(iv) The City shall indemnify a public official who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which the public official was a party because the public official is or was a public official of the City against reasonable expenses incurred, including attorney's fees, by the public official in connection with the proceeding.

113. Construction of Ordinance. The provisions of this Ordinance are to be construed liberally, to the end that the public interest be fully protected, and shall be construed in a manner consistent with all applicable federal and state laws and applicable provisions of the City Charter. In the event of a conflict between any provision of this Ordinance and any applicable federal, state or City charter provision which does not expressly provide otherwise, the federal, state or City charter provision shall control. To the extent permitted by law, all ordinances, resolutions or rules, and parts of ordinances, resolutions or rules inconsistent with this Ordinance are hereby repealed.

114. Less Restrictive. Any provision herein which is less restrictive than that provided for in the Tennessee Comprehensive Governmental Ethics Reform Act of 2006 shall be deemed invalid and in that event, the provisions of the Act shall apply. Any provision in the Act which applies to local government ethics requirements which is omitted herein shall be incorporated herein.

115. Severability. If any provision of this Ordinance is held by any court or by any federal or state agency of competent jurisdiction to be invalid as

conflicting with any federal, state or City charter provision now or hereafter in effect, or is held by such court or agency to be modified in any way in order to conform to the requirements of any such provision, the conflicting provision of this Ordinance shall be considered a separate, distinct and independent part of this Ordinance, and such holding shall not affect the validity and enforceability of this Ordinance as a whole, or any part other than the part declared to be invalid.”



Morristown City Council Agenda Item Summary

Date: June 19, 2017

Agenda Item: Police and Fire Uniform Bid

Prepared by: Joey Barnard

Subject: Awarding of Bid – Uniforms

Background/History: The City of Morristown provides uniforms for the Fire and Police Departments. The uniforms are purchased on an as-needed basis with officers and firefighters receiving uniforms on an annual basis. This bid is for two years.

Findings/Current Activity: The bid for these uniforms were solicited. The bids were advertised in the *Citizen Tribune* on March 24, 2017 and on March 31, 2017. Additionally, it was posted to the City of Morristown's website, and it was posted on Vendor Registry, an on-line bid facilitation website. The bid deadline was on Monday, April 10, 2017. The City of Morristown received 7 bids.

Financial Impact: Funds have been appropriated for uniforms for the Police and Fire Departments.

Action options/Recommendations: It is staffs' recommendation to accept the best and lowest bid from Galls for the daily uniforms and from BKT for Class A Dress Uniform for the Fire Department; and the best and lowest bid from Summit Uniforms for the Police Department.

Attachments: Bid Tabulation

City of Morristown
Police and Fire Uniform Bid
Monday, April 10, 2017 2:00 p.m.

Bidder		Lawmiers & Shooters Supply	Bob Barker Company Inc	Galls	Galls	GT Distributors	Summitt Uniforms	BKT Uniforms
FIRE								
1	Fire Uniform - Short and Long Sleeve Shirts							
	short sleeve						\$ 27.43	\$ 24.83
	Elbeco			\$ 25.50				
	Fecheimer				\$ 27.50			
	additional 1.00 flag							
	long sleeve						\$ 30.97	\$ 26.71
	Elbeco			\$ 37.00				
	Fecheimer				\$ 31.25			
	additional 1.00 flag							yes
2	Fire Uniform - Trousers						\$ 31.72	\$ 25.61
	Elbeco			\$ 37.00	\$ 40.50			
	Fecheimer							
3	Polo Shirts							
	5 11			\$ 22.75	\$ 22.75			
	Short Sleeve w/ pocket						\$ 15.59	
	Long Sleeve w/o pocket						\$ 18.19	
4	Cargo Trousers						\$ 28.48	\$ 49.21
	Mens		\$ 38.05					
	Womens		\$ 38.05					
	Horace			\$ 42.00	\$ 42.00			
5	Tee Shirts							
	short sleeve						\$ 8.50	
	Propper			\$ 6.25	\$ 6.25			
	long sleeve						\$ 10.50	
	Propper			\$ 9.75	\$ 9.75			
6	Blackinton B-21 Hi-Glow - A3028 Insignia	\$ 60.37		\$ 72.00	\$ 72.00	\$ 72.54	\$ 66.95	\$ 64.37
7	Blackinton B523 Rho-Glow - FD Insignia	\$ 60.37		\$ 72.00	\$ 72.00	\$ 72.54	\$ 66.95	\$ 64.37
8	Blackinton B-21 Hi-Glow - A3317 Insignia	\$ 60.34		\$ 72.00	\$ 72.00	\$ 72.54	\$ 66.95	\$ 64.37
9	Blackinton B-21 Hi-Glow - A2997 Insignia	\$ 60.37		\$ 72.00	\$ 72.00	\$ 72.54	\$ 66.95	\$ 64.37
10	Silver Nameplate w/black engraving	\$ 10.53		\$ 7.00	\$ 7.00	\$ 9.58	\$ 8.99	\$ 8.50
11	Gold Nameplate w/black engraving	\$ 10.53		\$ 7.00	\$ 7.00	\$ 9.58	\$ 8.99	\$ 8.50
12	Silver Serving Since w/black engraving	\$ 10.53		\$ 7.00	\$ 7.00	\$ 9.58	\$ 8.99	\$ 8.50
13	Gold Serving Since w/black engraving	\$ 10.53		\$ 7.00	\$ 7.00	\$ 9.58	\$ 8.99	\$ 8.50

City of Morristown
Police and Fire Uniform Bid
Monday, April 10, 2017 2:00 p.m.

	Bidder Police	Lawrence & Shooters Supply	Bob Barker Company	Galls	Galls	GT Distributors	Summitt Uniforms	BKT Uniforms
1	Police Uniform - Trousers							
	Elbeco			\$ 73.50			\$ 69.03	
	Fechelmer				\$ 75.00			\$ 69.36
	Spielwak							
	Blauer							
	Flying Cross							
2	Police Shirts (long & short sleeve)							
	Long Sleeve							
	Elbeco			\$ 54.00			\$ 57.46	
	Fechelmer				\$ 52.50			\$ 64.26
	Spielwak (add \$1.50 cpl&maj, \$1.00 flag)							
	Blauer/Super Shirt						\$ 66.79	
	Blauer/Class Act						\$ 61.20	
	Flying Cross/Justice						\$ 59.68	
	Short Sleeve							\$ 59.16
	Elbeco			\$ 49.00			\$ 49.50	
	Blauer/Super shirt							
	Blauer/Class Act						\$ 54.86	
	Flying Cross/Justice						\$ 58.97	
	Jackets						\$ 55.06	
3	XS-2XL			\$ 178.97			\$ 54.44	
	3XL-4XL			\$ 201.65				
	5 11 3 in 1 Parka			\$ 178.00			\$ 177.06	
	Spielwak				\$ 178.00		\$ 229.07	\$ 249.00
	Blauer						\$ 203.55	
	Elbeco						\$ 235.50	
4	Bail Caps			\$ 15.72				\$ 11.99
	Elbeco			\$ 7.50			\$ 7.50	
	Blauer							
5	Blauknon B720 RHO GLO 1/4" badge w/scrw back and full color state seal			\$ 70.96			\$ 13.03	
6	Blauknon B720 HI GLO bat badge w/scrw back and full color state seal			\$ 70.96			\$ 85.92	\$ 76.25
7	Blauknon B899 RHO Cpl brass badge w/valley arch and full color state seal			\$ 81.82			\$ 85.92	\$ 76.25
8	Blauknon B899 RHO Cpl brass badge w/valley arch and full color state seal			\$ 81.82			\$ 99.65	\$ 90.62
9	Blauknon B899 RHO GLO brass badge w/valley arch and full color state seal			\$ 81.82			\$ 99.65	\$ 90.62
10	Blauknon B899 HI GLO brass badge w/valley arch and full color state seal			\$ 81.82			\$ 99.65	\$ 90.62
11	Morristown Police Dept collar brass - 1/2" silver			\$ 9.86			\$ 91.98	\$ 15.50
12	Morristown Police Dept collar brass - 1/2" gold			\$ 10.47			\$ 9.51	\$ 16.87
13	1/2" brushed silver w/brush lettering sample with serving voice bar (2nd) pin back			\$ 18.10			\$ 14.00	\$ 9.50
14	1/2" brushed gold w/brush lettering sample with serving voice bar (2nd) pin back			\$ 18.10			\$ 14.00	\$ 9.50
15	1/2" brushed silver w/brush lettering sample w/scrw back (2nd) pin back			\$ 10.53			\$ 20.00	\$ 9.50
16	1/2" brushed gold w/brush lettering sample w/scrw back (2nd) pin back			\$ 10.53			\$ 20.00	\$ 9.50
17	Small rank color brass - Corp & Sgt in gold or silver			\$ 7.02			\$ 15.42	\$ 5.99
18	Large rank color brass - Corp & Sgt in gold or silver			\$ 7.02			\$ 15.42	\$ 5.99
19	Small rank color brass - Lt. Capt & Maj in gold			\$ 7.02			\$ 15.42	\$ 5.99
20	Large rank color brass - Lt. Capt & Maj in gold			\$ 7.02			\$ 15.42	\$ 5.99
21	Trousers			\$ 7.02			\$ 4.75	\$ 35.88
	(add \$1.50 sgt,cpt & maj; \$5.00 rank & name on collar)							yes
	Mens S-XL			\$ 33.12				
	Mens 3X-4XL			\$ 37.84				
	Elbeco			\$ 41.00				
	Flying Cross			\$ 37.00			\$ 42.90	



lbtechnology

Master Subscriber Agreement

This master subscriber agreement ("agreement") is entered into by and between LB Technology Inc., a Wyoming corporation, (the "company") and you as the subscriber ("subscriber"). Subscriber has agreed to purchase GPS enabled fleet tracking device(s) (the "equipment") and subscribe to communication services (the "service") from the company. The company agrees to provide the equipment and enable communication services for the equipment in accordance with the terms and conditions of this agreement. This agreement will be the "master" agreement for all future purchases of equipment and communication services between the company and subscriber.

Services:

LB Technology Inc. will provide to subscriber on an "as ordered" basis GPS enabled fleet tracking device(s) and wireless communication services (GSM, CDMA, or similar service), embedded within the device, and access to LB Telematics mapping and analytics software. Included in the fee for equipment LB Technology Inc. will provide standard telematics installation of the device(s) on orders exceeding 50 units. Additional installation and/or hardware expenses may apply for expanded services, including but not limited to panic button, microphone and speaker, refrigerated container temperature monitor and/or Driver ID module. Expanded hardware/installation fees will negotiated by your LB Technology Inc. sale representative and will be itemized on a product order form. The communication service fee will include unlimited data usage on LB Telematics map server. There will be no charge for storage of customer data on LB Telematics servers, data will be archived for a minimum of 2 years.

Fees:

The server access and equipment fee shall be the fees in effect on the date of this agreement, as listed below:

The fee for the equipment per device is 0 plus sales tax (if applicable) including standard installation

The monthly server access fee for a 12-month term 15.00 per vehicle plus applicable taxes, unlimited communication

The monthly server access fee for a 24-month term n/a per vehicle plus applicable taxes, unlimited communications

Billing and Payment:

Subscriber will pay equipment costs per device ordered, listed herein, and the monthly server access costs, per device ordered, when ordering equipment, including local and/or federal taxes, if any. Subscriber will be billed the 1st day of each month by the company for all equipment that have a monthly communication fee due the following month. Payment terms will be net 30 days, due the 1st of each month. Company will either automatically bill, using one of the payment methods listed herein and authorized by the subscriber, on the 1st day of each month, for monthly communication service, or send an invoice to subscriber's business address. Payment methods include check, credit card, ACH, debit card, or PayPal™. The company reserves the right to terminate communication service if payment is not received by the 15th of following month for all devices, without notice to the subscriber. In the event of termination for non-payment subscriber is liable for full contract obligations. Late fees will accrue beginning the 15th day after payment is due at a rate of 1.5% per month. The company will provide annual and/or monthly account reports showing all devices active and balances due within 15 days of the date of the report was requested by subscriber. The subscriber agrees that the company will not be liable for damages resulting from the loss of service due to the subscriber's non-payment of the communication fees.

Limited Warranty:

The equipment is warranted for one year from date of installation. The communication service carries no warranty, express or implied, due to forces beyond the control of the company. GPS data is secured from satellites which the company has neither ownership nor control over. The communication service is subject to all factors related to cellular communication services. The company is not responsible or liable for interruption or disruption of service. However, the company will make every reasonable effort to remedy any interruption of service in a timely manner upon notice from subscriber. If the company is unable to correct a deficiency under the agreement within a reasonable time, the subscriber will be refunded the communication service fees for the month. No other verbal, written, or implied warranty shall increase the scope of this warranty. The company shall not be liable for damages due to or arisen from failure of the equipment or communication service. The company shall not be liable for equipment warranties if the customer is not a subscriber to the company's communication service plan.

Term:

The term of this agreement will be 12 months, devices added during the term will have a contract term not to exceed the initial term. Once the initial term has expired contract will renew automatically for 1 year at the current monthly fee schedule. Customer may request a longer renewal term by notifying LB Technology Inc. Either party may cancel the service by notification in writing or by email 30 days in advance of annual anniversary date.

Confidentiality:

The company will not sell or otherwise disclose subscriber's information. The company will use all reasonable efforts to ensure that customer information is secure. The company will provide SSL encryption of all vehicle activity data stored on LB Telematics map server.

Loss of service:

The company is not responsible for damages from loss of service due to equipment failure, communication service failure, ~~or damages arising from installation of equipment~~ MB

Limitation of Liability:

In no event shall the company be liable to or for the subscriber for damages, direct or indirect, including, but not limited to, lost savings, lost profits, bodily harm, death, emotional distress, property damage or other direct or indirect damages and claims arising from the communication service and/or the equipment. Except as expressly warranted in this agreement the equipment and communication service are provided without warranty, either expressed or implied.

Notice: *LB Technology will be liable for damage to vehicles caused by installation of GPS devices by LB Technology* MB

All notices shall be in writing by registered mail or email and are effective when delivered.

General:

This agreement constitutes the entire agreement. This agreement supersedes any previous agreements whether written or oral. This agreement may only be modified in writing by an officer of the company. If any portion of this agreement is found to be void or unenforceable the remaining part of the agreement shall remain in force. This agreement does not convey rights, patents or trademarks on the equipment and/or communication service method of operating that the company owns to the subscriber.

Governing Law:

The agreement and all aspects of the relationship between the parties shall be governed by the laws of the State of ~~Wyoming~~ *TN* *(MB)*, excluding its conflicts of law provisions. Both parties consent to the exclusive jurisdiction of the state and federal courts of the State of Wyoming in respect of any action or proceeding arising out of or relating to this agreement, and agree that any such actions may only be brought in such courts located in Laramie County, Wyoming.

Return or Cancellation:

The subscriber may cancel any and/or all of subscriber's devices communication service with 30 days' notice before annual anniversary date. Company will switch active communication accounts between devices during an annual term.

LB Technology Inc.

5100 Poplar Ave Suite 2104

Memphis TN 38137

901-322-6016/800-284-3705 email: admin@lbtelematics.com

By: _____ Date _____

Subscriber: *City of Morristown* Contact *Paul Brown*

Address: *PO Box 1499*

City: *Morristown* State *TN* Zip *37816*

Email *pbrown@mymorristown.com*

Business Phone *423-585-4658* Cell *423-353-1053*

Signature _____ Date _____

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Mike Burkett

Mike Burkett

VP - National Sales Manager



ATTORNEYS SINCE 1950

RICHARD C. JESSEE

(OF COUNSEL)

LAUREN A. CARROLL

W EVAN ANDERSON

GEORGIAN COURT | 1135 WEST 3RD NORTH STREET

MORRISTOWN, TN 37814-3891

PHONE: 423-586-5291

FAX: 423-581-6883

www.bjplaw.org

HERBERT M. BACON

(1925-2017)

RONALD L. PERKINS

(1944-2016)

July 11, 2017

Chief Roger D. Overholt

RE: School Resource Officer Program & Agreement

Dear Chief,

You asked me to review the Agreement for School Resource Officers and a letter from Lt. Gulley regarding a possible modification to this Agreement. The issue appears to be whether or not these School Resource Officers ("SRO's") should be deemed to be an extension of the school principal. The proposed change and suggested language were apparently recommended at the recent SRO Conference and training as a way to reduce the Police Department's liability and basically provide another party, the school system, to share in any potential liability due to the actions of a SRO.

In response to the reduction of liability argument, I do not see the benefits of modifying the Agreement on this basis. If there is a lawsuit based on the actions of a SRO, I can about guarantee that every possible entity/person that can be sued will be sued. Even at this point with the current Agreement in place, the school system would be sued, as well as the City, the Police Department, the SRO, etc. Such a lawsuit would be governed by the Governmental Tort Liability Act. I do not believe that adding the language that the SRO is an extension of the principal would necessarily reduce any of our exposure. I presume the thought is that we would claim that the SRO only took a certain action because the principal directed him/her to do so, therefore the majority of the liability should lie with the school board. However, on the flip side, we could be opening ourselves up to more exposure if the principal directed the SRO to take some administrative action that resulted in a lawsuit. My concern is that this attempted liability shift could undermine the intentions of the program and our relationship with the school system.

The Agreement that you provided me with is very well written and I believe covers the intention of the SRO program. The duties listed in paragraph 6 provide the SRO's with the ability to maintain order and act as law enforcement officers, but also be a support for the students, teachers and administrators. The following paragraph in the Agreement specifically states that it is not intended that the SRO act as the school disciplinarian and that his/her authority as a law enforcement officer is not meant to be limited. If we make the SRO's an extension of the principal, we would basically be putting these officers in the disciplinarian role.

We want our SRO's and our school administrators to successfully work together, but I do not think we would want to mix administrative duties with law enforcement duties. If the SRO believes criminal activity is occurring and decides to handle that situation as a law enforcement officer, he/she should be allowed to take that action without needing to obtain the approval of a school administrator. Likewise, if the school principal identifies a violation of school policy and decides to address that violation through the administrative process, that should be handled by the principal and not by instructing the SRO to carry out and interpret administrative guidelines. This could lead to situations where the SRO feels as though his/her hands are tied because he/she has been directed to act like an administrator rather than a law enforcement officer.

I am certainly willing to discuss this with you further or discuss various scenarios where such a combined role could cause confusion not only for the SRO but for the school and the best way to proceed.

Sincerely,

Lauren A. Carroll

AGREEMENT FOR SCHOOL RESOURCE OFFICERS

This agreement made and entered into by and between the Hamblen County Board of Education (hereinafter "BOARD") and the Chief of Police and City of Morristown, Tennessee (hereinafter "CHIEF" and "CITY" or, collectively, as "CITY")

WITNESSETH:

The following recitals are deemed necessary as antecedents to this agreement:

The parties recognize that there are benefits to be derived by each party from cooperative programs;

The parties desire to implement a School Resource Officer (SRO) program which is designed to improve the lines of communication between the parties, provide assistance to schools in introducing instructional material, encourage discussion among students on topics of current interest, provide the additional security derived from having an officer present at school functions, as well as other benefits;

The parties desire to enter into an agreement defining the program and the rights and responsibilities of the parties in this program;

Now therefore, in consideration of the foregoing, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the following agreement is made:

1. This document supersedes all previous School Resource Officer agreements.
2. The CITY shall provide the BOARD four full-time School Resource/DARE Officers, assigned by the BOARD to individual schools as deemed appropriate. The School Resource Officers shall be employees of the CITY, and the CITY shall have ultimate control and supervision over the School Resource Officers. The CITY shall be solely responsible for the pay and benefits for the School Resource Officers and shall be responsible for employment, discipline, and discharge of such officer. The BOARD shall reimburse to the CITY twenty thousand dollars (\$20,000) for each of the four School Resource Officers. The total amount the BOARD shall reimburse to the CITY is eighty thousand dollars (\$80,000) for four School Resource Officers.

3. The CHIEF shall select the persons to be designated as the School Resource Officers, but the BOARD may reject any such selection. The parties agree to cooperate to find officers acceptable to both parties.

4. The CHIEF shall be responsible for supervising and assigning the duties of the School Resource Officers. However, the BOARD shall work with the CHIEF in identifying the areas where the School Resource Officers are needed and to develop a schedule for the School Resource Officers. In addition, the BOARD shall provide an organization, or chain of command, to work with the School Resource Officers in implementing programs desired by the parties.

5. The School Resource Officers shall be assigned to schools on a full time basis, but their hours may be adjusted to permit attendance at certain extracurricular activities such as athletic contests, club meetings, etc. When school is not in session due to vacations, weather, or other reasons, the CHIEF may assign the School Resource Officers to other non-school-related tasks.

6. Among the duties and responsibilities of the School Resource Officers, but not limited to such activities, are the following:

- A. Act as instructors for specialized, short-term programs at schools;
- B. Be guest speakers at school and school-related functions;
- C. Recommend and assist in the implementation of programs designed to encourage law and order and discipline within the schools;
- D. Attend parent, faculty, and/or student meetings as indicated to ascertain needed programs in areas where involvement of a School Resource Officer could be beneficial;
- E. Be available for conferences with students, parents, teachers, and administrators to assist them with their responsibilities of law enforcement and crime prevention;
- F. Gain and maintain a familiarity with community agencies which offer assistance to young people and their families and recommend to the BOARD personnel referrals to such agencies as the School Resource Officer deems necessary or beneficial to students, faculty, and staff;
- G. Provide assistance to the BOARD in developing and implementing security plans and programs designed to encourage order and discipline in the schools;
- H. Maintain detailed and accurate records of daily operations of the School Resource Officer program and make recommendations and other reports of an instructional nature as required by the school administration or the CHIEF;
- I. Provide assistance as requested by BOARD officials in developing and maintaining discipline and order in the schools;
- J. Maintain confidentiality of all student records and other material deemed confidential under State and Federal law.

7. It is not intended that a School Resource Officer shall act as a school disciplinarian, although it is expected that the School Resource Officers will provide assistance in maintaining discipline and order in the schools. School Resource Officers shall not be used for regularly-assigned lunch duty, or other student monitoring duties. Nothing herein is intended to limit a School Resource Officer's authority as a law enforcement officer employed by the CITY.

8. The BOARD shall provide to each School Resource Officer the following materials and facilities:

- A. Access to a well-ventilated and properly-lighted private office which shall include a telephone to be used for general business purposes;
- B. A location where files and records can be properly secured;
- C. A desk with drawers, a chair, a work table, filing cabinets, and the requisite office supplies.

9. The CHIEF shall have full authority over the School Resource Officer program and may, subject to the BOARD's right to reject such assignment, assign a different officer as School Resource Officer at his discretion. The BOARD, or the administration of the BOARD, may reject any proposed School Resource Officer, but does not have the right to select the School Resource Officer. If a problem arises with a particular School Resource Officer, the BOARD may request that the officer be removed from the School Resource Officer program, but the ultimate decision in this regard shall rest with the CHIEF.

10. This agreement shall be effective for the period from July 1, 2017, until June 30, 2018. Either party may terminate the agreement, with or without cause, by giving the other party ninety (90) days written notice. If either party breaches any provision of this agreement, then the non-breaching party may terminate the agreement upon thirty (30) days written notice to the breaching party.

11. Notices and other communications required to be made under this agreement shall be effective when deposited in the United States Postal Service as regular mail, postage prepaid, and addressed as follows

To the BOARD:

Director of Schools
Hamblen County Department of Education
210 East Morris Boulevard
Morristown, TN 37813

To the CHIEF:

Chief of Police
Morristown Police Department
P. O. Box 1283
Morristown, TN 37816

To the CITY:

Mayor
City of Morristown
100 West First North Street
Morristown, TN 37814

12. The parties pledge their good faith efforts to cooperate in fulfilling the terms of this agreement and in developing and implementing the School Resource Officer program.

13. This agreement may not be assigned without the expressed written consent of the BOARD and the CITY.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on this the ____ day of
, 20____.

HAMBLENT COUNTY BOARD OF EDUCATION

BY: _____
Board Chair

BY: _____
Director of Schools

M. P. D. CHIEF OF POLICE

CITY OF MORRISTOWN, TENNESSEE

BY: _____

Agreement for Services

This Agreement is made and entered into as of **January 1, 2017**, by and between the **City of Morristown**, a municipal corporation located in Hamblen County, in the State of Tennessee, (hereinafter "**City**") and the **Morristown Housing Authority**, a public corporation created under the laws of the State of Tennessee and located in Hamblen County, in the State of Tennessee (hereinafter "**MHA**").

Witnesseth:

Whereas, **MHA** provides public housing for low-income elderly and handicapped residents through its ownership and operation of nine (9) residential housing facilities and through its Section 8 program; and

Whereas, **MHA** has entered into a Capital Fund Program with the Department of Housing and Urban Development to provide certain funds for police services; and

Whereas, the **City** is responsible for providing law enforcement and police services at **MHA's** housing facilities located within the corporate limits of Morristown, which services are provided by the **City's** police department subject to its priorities for utilization of available manpower and resources; and

Whereas, **MHA** wishes to contract with the **City** for additional services of an on-duty police officer for **MHA's** housing facilities and housing programs.

Now, Therefore, for and in consideration of the premises and the mutual covenants herein contained, the parties contract and agree as follows:

1. This agreement shall be for a term of **one (1) year**, beginning **January 1, 2017**, and ending **December 31, 2017**, and for such additional term(s) as the parties may hereinafter agree in writing.
2. During the term of this agreement, **City** shall assign to **MHA** one (1) on-duty professionally trained police officer, who shall provide, in his/her capacity and according to **MHA** guidelines, police services to and for the benefit of **MHA** and its housing facilities and programs. It is understood that while said officer is assigned to **MHA**, his/her primary task will be to provide services for the benefit of **MHA** and that police duties performed for Morristown Police Department will be compensated for by the **City of Morristown**. The Morristown Police Department shall provide all equipment and vehicles.
3. **MHA** shall pay the **City** not to exceed the sum of **Forty Thousand (\$40,000.00) dollars** for the services of said police officer, the receipt of which is hereby acknowledged by **City**. The Morristown Housing Authority shall provide the following:
 - a. **A well-ventilated and lighted office which shall include a telephone to be used for general purposes;**
 - b. **A location where files and records can be properly secured;**
 - c. **A desk with drawers, a chair, a work table, filing cabinets, and the requisite office supplies.**
4. Said police officer shall be under the direction of **MHA** as to his/her daily activities and the time and rendering his/her services. He/she shall work a **40-hour workweek plus MHA and the City may authorize such additional overtime hours as needed**. All services performed under this contract shall be verifiable through

daily records sheets, written work assignments, and written incidents reports. Said officer shall remain an employee of the **City** and shall receive his/her compensation and benefits from the **City** and shall be under the ultimate control and jurisdiction of the **City police department** in the same manner as other police officers; this service being considered as on special assignment.

5. The services provided by said police officer shall include, but are not limited to, the following:
 - a. Providing background and criminal history information on applicants for public housing and Section 8;
 - b. Conducting investigations regarding ongoing criminal activities occurring at **MHA's** housing facilities or in connection with **MHA's** housing programs;
 - c. Initiating security safety and crime-prevention programs for residents of **MHA's** housing facilities and overseeing such programs;
 - d. Providing police patrol services; to increase resident awareness and involvement in improving community environments;
 - e. Coordinating and conducting youth programs at **MHA's** housing facilities and/or for **MHA's** housing programs; and
 - f. **Providing such other law enforcement and police services as may be requested by MHA from time to time.**
6. This written agreement represents the entire agreement between the parties and no prior representations, promises, agreements, oral or otherwise, between the parties not herein contained shall be of any force or effect.
7. A modification or waiver of any of the provisions of this agreement shall be effective only if made **in writing** and executed with the same formality as this agreement.
8. The **City** or **MHA** may terminate this agreement at any time by giving **written notice** to the other party at least **thirty (30) days** prior to the date when such termination shall be effective.

In Witness Whereof, the parties hereto have executed duplicate counterparts of this Agreement, each of which shall be deemed an original.

City of Morristown

By: _____
City Administrator

Date

Attest: _____
Chief of Police

Date

Morristown Housing Authority

By: _____
Chairman

02/28/2017
Date

Attest: _____
Executive Director

02/28/2017
Date



July 13, 2017

City of Morristown
Larry Clark
Administrative Services Director
100 West First North Street
Morristown, Tennessee 37814

RE: General Engineering Services – Amendment No. 3
Morristown, TN

Dear Mr. Clark,

The intent of this letter is to amend our Professional Engineering Review Services Agreement dated November 19, 2014. From this point forward, this document will be considered Amendment No. 3 to the contract. The reason for this Amendment is to extend the contract into the 2017-2018 fiscal year. As such, McGill Associates proposes to continue providing general professional engineering services, as described in the original contract Agreement, with the allocation of an initial \$40,000 in funding for the new fiscal year. As outlined in Part 3 of the Agreement, this funding limit may be amended by written agreement of each party, if so desired. If you find this Amendment acceptable, please indicate acceptance by signing below and returning one copy for our files. As always, we thank you for the opportunity to serve the City of Morristown.

If you have any questions or comments, please do not hesitate to let me know.

Sincerely,
McGILL ASSOCIATES, P.A.

A handwritten signature in blue ink that reads 'John R. Greear, P.E.'.

JOHN (JAKE) GREEAR, P.E.
Project Manager

ACCEPTED

CLIENT:

BY: _____

(Signature)

(Print Name/Title)

Date: _____

McGILL ASSOCIATES, P.A.:

BY: _____

A handwritten signature in blue ink that reads 'Jamie Carden'.

Jamie Carden, P.E., Knoxville Office Manager

Date: July 13, 2017

E n g i n e e r i n g • P l a n n i n g • F i n a n c e

McGill Associates, P.A. • 2240 Sutherland Avenue, Suite 2, Knoxville, TN 37919

865-540-0801 • Fax 865-595-4999

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Date _____



Morristown City Council Agenda Item Summary

Date: July 18, 2017

Agenda Item:

Prepared by: Larry Clark

Subject: McGill & Assoc. General Services Contract

Background / History: In FY 2016 Council approved a general services contract with McGill & Assoc. for engineering services for the City. The services were for Planning Dept. mostly but also assisted other departments in the City. The main areas were for plan reviews and traffic concerns.

Findings / Current Activity: To approve requisition for general services with McGill & Assoc. to continue their assistance with staff for engineering items in FY 2018.

Financial Impact: Funds are budgeted in the 2018 budget.

Action options / Recommendations: Approve requisition

Attachments: Amendment

CURBLINE MAINTENANCE AGREEMENT

This Curbline Maintenance Agreement ("Agreement") is entered into this 13th day of July 2017 by and between **THE CITY OF MORRISTOWN, TENNESSEE** ("City") and **L&B LANDSCAPE & PROPERTY MANAGEMENT, LLC**, 151 Scenic Shores Drive, Dandridge, TN 37725 ("L&B").

WITNESSETH

Whereas City on or about May 26, 2017 issued its Request for Proposal for Curbline Maintenance, and

Whereas L&B on or about June 6, 2017 submitted its Proposal which was approved with some exceptions by City Council on June 20, 2017, and

Whereas the City and L&B do hereby intend to enter into this Curbline Maintenance Agreement incorporating said Proposal for services with the City Council's modification as discussed herein.

NOW THEREFORE IT IS AGREED AS FOLLOWS:

1. **Scope of Services.** The Scope of Services contained in the City's Request for Proposal and L&B's response shall be incorporated as if stated herein. L&B will provide curbline and sidewalk maintenance, to include removing all grass and weeds between the curb and specific City streets and removing litter and garbage along these curblines. The streets and curblines to be maintained are listed in L&B's Proposal and said list is incorporated as if stated herein. Pursuant to the City Council's modification of L&B's proposal, L&B shall complete one (1) trip as defined in the Proposal and at the rate stated in the Proposal. Upon completion of this trip, the City Council, or their designee, shall determine if the quality of L&B's work meets the City's approval to thus warrant two (2) more trips to be completed by L&B. L&B also agrees to provide all the traffic control, rising to the standards required by MUTCD.
2. **Term of Agreement.** The initial term of this Agreement shall run from July 1, 2017 until the first trip by L&B has been completed. Upon approval by the City of L&B's work, the Agreement shall be extended until June 30, 2018. After the initial term and any extension to June 30, 2018, the City reserves the right, at its sole option, to either renew the Agreement with L&B for an additional one (1) year term, or it may seek the submittal of new proposals.

3. **Insurance.** L&B shall maintain throughout the term of this Agreement General Liability coverage with limits of liability of \$1,000,000.00 naming the City as an additional insured. Additionally, L&B shall maintain workers compensation insurance with a minimum coverage of \$500,000.00 and shall provide proof of said insurance policies to the City.
4. **Payments and Expenses.** L&B shall provide the City with detailed monthly invoicing that shall list the address where the work was completed, the date the work began and ended, and a detailed description of the pricing for the work completed. Upon receipt of said invoices, the City shall remit payment within fifteen (15) days of the receipt of the previous month's invoice. L&B shall be responsible for and provide any and all labor, materials, equipment and transportation necessary to complete the required work and will also be responsible for all fees associated with the removal of debris, including but not limited to landfill costs.
5. **Binding Effect.** This Contract and Agreement shall be binding upon the undersigned, their successors and assigns unless modified by an agreement in writing executed by the parties hereto.
6. **Disputes.** Should any disputes arise between the parties, Tennessee law shall govern and venue shall lie in Hamblen County, Tennessee.
7. **Termination.** The City reserves the right to terminate this Agreement at any time for L&B's poor performance of the services.

Witness the day and year first above written.

City of Morristown, Tennessee

L&B Landscape & Property Management, LLC

By: _____

By: Billy R. Suggs



July 10, 2017

Joey Barnard, CGFM, CFE, MBA
Finance Director
City of Morristown
100 West First North Street
Morristown, TN 37814

Re: Professional Services for 'FY 2018

Dear Mr. Barnard,

This letter is to propose our extension of services under the Agreement dated May 19, 2015. Section IV describes a variety of services which the City may choose to use from time to time. Each assignment shall require a written authorization in accordance with Section X of the Agreement. These services are to be provided on an hourly basis using the rates in Appendix A. That appendix provides for an escalation of the rate. For this extension of services there is no proposed change in rate from the 2015 Agreement.

If there are questions concerning this proposal please feel free to call.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lamar Dunn", with a long horizontal flourish extending to the right.

Lamar Dunn, P.E., FACEC
President
Strategic Services Company, LLC

CLD/alh

cc: Tony Cox

4661 McCammon Court • Maryville, TN 37804 • Phone: (865) 207-3113
ldunn@ssc-mgt.com

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Appendix A

Labor Classification:	Hourly Rate
Senior Principal Engineer	\$195.00
Mechanical Engineer	\$175.00
Environmental Engineer	\$175.00
Electrical Engineer	\$175.00
Environmental Scientist	\$160.00
Staff Engineer	\$125.00
Senior Technician	\$ 90.00
CADD Designer	\$ 85.00
Clerical	\$ 75.00

Non-labor Project Cost:

When travel and other non-labor project cost are required, which have been properly authorized by the City, SSC shall be compensated actual non-labor project cost, plus 15% for handling.

The hourly rates shown in this appendix are to be escalated annually at a rate equal to the inflation percentage as established by the Department of Labor.



CITY OF MORRISTOWN
PURCHASING DIRECTOR

P.O. Box 1499
Morristown, TN 37815-0647
Phone: (423) 585-4622 Fax: (423) 585-4687

Purchase Order

Fiscal Year 2018

Page 1

THIS NUMBER MUST APPEAR ON ALL INVOICES,
PACKAGES AND SHIPPING PAPERS.

Purchase Order # **18000104-00**

Retain this purchase order for proof of tax exemption.

Tax Exempt #62-6000369

**V
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STRATEGIC SERVICES COMPANY LLC
4661 W MCCAMMON COURT

MARYVILLE, TN 37804

**S
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T
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City of Morristown
400 Dice Street
aahl@mymorristown.com
Morristown, TN

37813

Vendor Phone Number		Vendor Fax Number	Requisition Number	Delivery Reference/Contact	
			18000130	ASHLEY AHL	
Date Ordered	Vendor Number	Date Required	Interoffice Delivery		Department/Location
07/12/17	006890				41800
Item#	Description/Part No.		Qty/Unit	Cost Each	Extended Price
001	ORIGINAL		1.00	40000.00000	40,000.00
	STAFF AUGMENTATION SERVICES NOT TO EXCEED \$40,000 ANNUALLY		EACH		
	41800-399		40,000.00		
				PO Total	40,000.00

The City of Morristown is an equal
employment / affirmative action
employer EOE / AA

Authorized Signature

Date

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VENDOR COPY

Authorized Signature

Date

Addendum #1: Attached to the original lease for office space located at 1748 West Andrew Johnson Hwy, Morristown, TN dated November 1, 2011.

The parties mutually agree to extend the current lease from November 1, 2017 to October 31, 2020, at the current monthly rent of \$1,650. All other lease provisions remain unchanged.

STP, LLC

By: _____

Title: _____

Dated: _____

City of Morristown

By: _____

Title: _____

Dated: _____

Hamblen County, Tennessee

By: Bell Buttain

Title: Quincy Meyer

Dated: 6-22-2017

COMMERCIAL LEASE

THIS COMMERCIAL LEASE is hereby made and entered into this 22nd day of August, 2011, by and between STP, LLC ("Landlord") and Hamblen County Government and City of Morristown, TN ("Tenant").

WITNESSETH:

For and in consideration of the rental, undertakings and mutual covenants herein after set forth, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, subject to the terms and conditions hereinafter expressed, certain office space more particularly described and located within the Landlord's real estate described on attached Exhibit A.

Street Address: 1748 West Andrew Johnson Highway, Morristown, Tennessee, 37814.

The "leased premises" shall be a one thousand five hundred fifty four (1,554) square foot interior office suite located within the eastern portion of the landlord's building. Further included in the leased premises is the joint use of the parking area in the front and rear of the landlord's building, together with all appurtenances thereto. Said improved real estate, together with the appurtenances, is hereinafter referred to sometimes as the "Leased Premises."

The covenants and conditions of this Lease are as follows:

1. **Term.** This Lease shall commence on November 1, 2011. This Lease is a three (3) year lease and shall have a single three (3) year automatic renewal option. To decline and not exercise the three year renewal option, the Tenant must deliver notice to Landlord in writing six months before the expiration of the initial three year term of its intention not to renew. Failure to deliver timely notice of the exercise of this option to not renew will result in the option being automatically accepted and another term of three years will commence.

Landlord shall have the right within the last six months of the leasehold term to show the leasehold premises to prospective tenants with notice to the Tenant should Tenant not deliver the written notice to exercise the nonrenewal option in a timely manner.

2. **Rent.** Tenant agrees to pay, without demand, to Landlord as rent for the Leased Premises one thousand three hundred thirty six (\$1,336.00) dollars per month beginning with the first day of this lease and on the same day of each calendar month thereafter for a total of thirty six months.

The rental terms for the three year automatic renewal option will be one thousand five hundred dollars (\$1,500.00) per month beginning on November 1, 2014 and ending on October 31, 2017. All other terms of the lease shall continue to be in effect.

3. **Build out provisions.** Landlord and Tenant agree that Landlord will contract for and pay for the installation of two sinks with cabinets in the interior of the leasehold premises not to exceed \$2,500 in cost.

4. **Alterations and Improvements.** Tenant shall make no alterations, additions or improvements, including but not limited to painting of walls and attachment of wall furnishings, without the prior written consent of Landlord. All additions and improvements made in and upon the Leased Premises, either by Tenant or Landlord, shall be the Landlord's sole property or shall remain upon the Leased Premises at the termination of this Lease, without compensation to the Tenant.

5. **Maintenance and Repair.** Tenant agrees to maintain the Leased Premises in the same general condition as when received, ordinary wear and tear and damage by the elements expected. Tenant also agrees to keep the Leased Premises free from trash, garbage and other waste.

Notwithstanding anything else herein contained and surviving the expiration or termination of this Lease, Tenant agrees to pay Landlord, upon demand, for any and all loss or damage to the Leased Premises caused by Tenant's misuse, waste or neglect, or caused by any of Tenant's employees, agents, clients, visitors or anyone else invited by or under the control of Tenant.

Tenant shall not allow any unlawful activities to take place upon the Leased Premises.

Tenant shall promptly notify Landlord of any accident to or defect in the water pipes, sewer pipes, gas pipes, electric wiring, heating or air conditioning systems or fixtures. It is agreed that Landlord shall not in any case be liable in damages for any temporary breakdown of said facilities or discontinuance of services provided by such facilities. Tenant agrees to take all reasonable steps to protect the plumbing during freezing weather.

Specific duties of Tenant: Plumbing repairs and maintenance shall be the responsibility of the Tenant. Repairs will include the cost of backup of services and drains from fixtures within the leasehold premises. The cost of such service and repair from "backup" will be the sole expense of the Tenant.

Tenant is responsible for all HVAC issues, maintenance of all fixtures and components and replacement of any such fixtures and or components.

Tenant shall be responsible for all janitorial service, supplies and associated appliances to be used in connection with janitorial services, including paper towels dispensers, paper goods, etc.

Any sign attached to the outside of the building is the responsibility of the Tenant. Such sign must be approved by appropriate municipal authorities and the Landlord. There shall be no signage at the street or along the right of way of the public street.

6. Utilities and Other Charges. Tenant shall be responsible for arranging for and paying for all electricity, water, telephone, alarm system, and other utility charges for the Leased Premises and the deposits for same.

7. Quiet Possession. Landlord warrants that Tenant shall have quiet and peaceful possession of the Leased Premises without hindrance on the part of Landlord for so long as Tenant is not in default under the terms of this Lease.

8. Right of Inspection. Landlord shall have the right to enter the Leased Premises at all reasonable hours during the day to inspect the same or to make such repairs and alterations as may be necessary for the safety or preservation of the Leased Premises. Landlord shall make every reasonable effort to notify Tenant of inspections.

9. Insurance Provisions. Landlord shall maintain property and casualty insurance on said property. Tenant shall not use or permit upon the Leased Premises anything that will invalidate any insurance policy now or hereafter in effect on the Leased Premises or that will increase the rate of insurance or cause such insurance to be canceled.

Tenant shall provide his own insurance covering personal property and premises liability with minimum liability limits of \$1,000,000.00, and shall name S.T.P., LLC as Additional Insured. A copy of said policy, or acceptable Certificate of Insurance shall be given to Landlord within five (5) business days of inhabiting the premises.

10. Landlord duties. Landlord will maintain and clean the exterior of the Building, the grounds and the parking lot. Landlord will support Tenant placing approved signage on the outside of the building.

11. Abandonment. If any time during the term of this Lease, Tenant abandons the Leased Premises, Landlord may, at his option, enter the Leased Premises by any means without being liable for any prosecution therefore, and without becoming liable to Tenant for damages of any kind whatsoever.

Landlord may then at his discretion release the Leased Premises for the whole or any part of the then unexpired term and may receive and collect all rents payable by virtue of such releasing and, at Landlord's option, under this Lease during the balance of the unexpired term, if this Lease had continued in force. If Landlord's right of re-entry is exercised following the abandonment of the

Leased Premises, then he may consider any of Tenant's personal property remaining there in any matter which he shall deem proper and which is lawful, and Landlord is hereby relieved of all liability for doing so.

12. **Default.** All rents shall be due and payable the first day of each month. A \$25 late charge will be assessed if rent is paid after the fifth day of the month. Each of the following events shall constitute a default or breach of this Lease by Tenant:

(a) If Tenant shall fail to pay Landlord any rent within five (5) days after Landlord notifies Tenant that it is unpaid; and or

(b) If Tenant shall fail to perform or comply with any of the other condition, term or agreement in this Lease as set forth herein within thirty (30) days after notice by Landlord to Tenant specifying the condition to be performed or complied with.

In the event of any default hereunder, Landlord, at any time thereafter, may terminate the Lease at its option and/or re-enter the Leased Premises and expel, remove and put out Tenant or any person or persons occupying the Leased Premises and remove all personal property there from as allowed by law.

Upon re-entry Landlord may, at its option, release the Leased Premises or any part thereof as the agent of Tenant, and Tenant shall pay Landlord the difference between the rent herein reserved and imposed for the portion of the term remaining at the time of re-entry and the amount received under such releasing for such portion of the term; additionally, Landlord may also recover from Tenant any other sums (including rents) then due. Landlord may also terminate this Lease and recover from Tenant any sums then due.

Notwithstanding any other provision herein contained, Tenant shall be responsible for all losses (including loss of rents) and damages resulting from any default and/or termination of this Lease. If this Lease is placed in the hands of an attorney, after default or breach, for the enforcement of any rights of Landlord herein, Tenant agrees to pay all costs of such enforcement or collection, including reasonable attorneys' fees.

13. **Surrender of Premises.** At the termination of this Lease, Tenant shall return and surrender the Leased Premises hereby demised without demand of the Landlord in the same condition and properly cleaned, as they were at the time of execution of this Lease, normal wear and tear excepted.

14. **Assignment and Subletting.** Tenant shall not assign this Lease or sublease the Leased Premises, or any part thereof.

15. **Notice.** Any notice required under this Lease shall be given to Landlord by certified United States mail, postage prepaid, return receipt requested, at the following address,

1750 West Andrew Johnson Highway, Morristown, TN 37814.

Any notice to Tenant provided for in this Lease shall be given to Tenant in writing either personally, or by mailing, delivering or leaving the same at the address of the Leased Premises.

16. **Miscellaneous.** The terms and provisions of this Lease are severable such that if any term or provision is declared to be invalid or unenforceable by a court of proper jurisdiction, such invalidity or unenforceability shall not affect the remaining terms and provisions of this Lease, which shall otherwise remain in full force and effect. The entire understanding between the parties is set out in this Lease, this Lease supersedes and voids all prior proposals, letters and agreements, oral or written, and no modification or alteration of this Lease shall be effective unless evidenced by an instrument in writing signed by all parties. This Lease shall be interpreted and construed in accordance with the laws of the State of Tennessee.

IN WITNESS WHEREOF, the parties have executed this instrument this _____ day of August, 2011.

LANDLORD: STP, LLC

BY: _____

Date: _____

TENANT: Hamblen County (TN) Government

BY: _____

Date: _____

TENANT: City of Morristown, TN

BY: _____

Date: _____

Inspection and Maintenance Agreement

(I&M Agreement)

City of Morristown, TN
100 West 1st North Street
Morristown, TN 37814
(423) 581-0100

Inspection and Maintenance Agreement (I&M Agreement)

THIS AGREEMENT, made and entered into this 31st day of MAY, 2017, by and between Walters Ridge Apartments, L.P. hereinafter called the "Landowner", and
(Insert Full Name of Owner)
the City of Morristown, TN hereinafter called "City".

WITNESSETH, that

WHEREAS, the Landowner is the owner of certain property described as Map 033 F A

Parcel 6.01 as recorded by deed in the last land records of
(Insert Hamblen County Tax & Parcel Number)

Hamblen County, TN, Deed Book 1629 Page 417, hereafter called the "Property".

WHEREAS, the Landowner is proceeding to build on and develop the property; and

WHEREAS, the Site Plan/Subdivision known as Walters Ridge Apartments
(Name of Plan/Development)

hereafter called the "Plan", which is expressly made a part hereof, as approved or to be approved by the City, provides for management of stormwater within the confines of the property; and

WHEREAS, the City and the Landowner, its successors and assigns, agree that the health, safety and welfare of the residents of the City of Morristown, Tennessee, require that on-site stormwater management/BMP facilities be constructed and maintained on the Property; and

WHEREAS, the City requires that on-site stormwater management/BMP facilities, as shown on the Plan, be constructed and adequately maintained by the Landowner, its successors and assigns.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

1. The on-site stormwater management/BMP facilities shall be constructed by the Landowner, its successors, and assigns, in accordance with the plans and specifications identified in the Plan and shall, upon construction completion, be certified as such by the Plan's Engineer of Record.
2. The Landowner, its successors, and assigns, shall adequately maintain the stormwater management/BMP facilities as outlined in the Plan and contained within the Landowner's property. This includes all pipes and channels built to convey stormwater to and from the facility, as well as all structures, improvements, and vegetation provided to control the quantity and quality of the stormwater. Adequate maintenance is herein defined as good working condition, so that these facilities

are performing their design functions. Those maintenance procedures outlined in the Plan and the City's approved BMP guidelines shall be practiced at a minimum. Common maintenance shall include the removal of debris (leaves, lawn clippings, sticks, etc.) and trash after rainfall events, checking outlet structures for clogging and cleaning, as necessary, repairing erosive areas promptly upon observation, and removing accumulated sediment.

3. The Landowner, its successors, and assigns, shall inspect the stormwater management/BMP facility and report to the City Engineer if any major repairs (i.e. structural) are necessary. The purpose of the inspection and reporting is to assure safe and proper functioning of the facilities. The inspection shall cover the entire facilities, berms, outlet structure, pond areas, access roads, etc and shall be performed at such times and such manner as to accomplish these objectives.
4. The Landowner, its successors, and assigns, will perform the work necessary to keep these facilities in good working order as appropriate. In the event a maintenance schedule for the stormwater management/BMP facilities (including sediment removal) is outlined on the approved plans or in the City's BMP guidelines, the Landowner, its successors, and assigns, shall adhere to the schedule.
5. The Landowner, its successors, and assigns, hereby grant an easement to the City, its authorized agents, and employees, to enter upon the Property and to inspect the stormwater management/BMP facilities whenever the City deems necessary. The purpose of inspection may be to check the facility for proper functioning, to follow-up on reported deficiencies or repairs, to respond to citizen complaints, and/or to check for any other reasons the City deems necessary. If problems are observed, the City shall provide the Landowner, its successors, and assigns, copies of the inspection findings and a directive to commence with the repairs within a specified timeframe.
6. In the event the Landowner, its successors, and assigns, fails to maintain the stormwater management/BMP facilities in good working condition acceptable to the City, the City may enter upon the Property and take the steps necessary to correct deficiencies identified in the inspection report. This provision shall not be construed to allow the City to erect any structure of permanent nature on the land of the Landowner, outside of the easement, for the stormwater management/BMP facilities. It is expressly understood and agreed that the City is under no obligation to routinely maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on the City.
7. In the event the City, pursuant to this Agreement, performs work of any nature or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the Landowner, its successors, and assigns, shall reimburse the City upon demand, within sixty (60) days of receipt thereof, for two hundred percent (200%) of all actual costs incurred by the City hereunder.
8. If the Landowner fails to pay the City for two hundred percent (200%) of their incurred expenses within sixty (60) days of receipt of written notice, the Landowner authorizes the City to place a lien against the property in an amount equal to two hundred percent (200%) of said expenses.
9. If the Landowner fails to reimburse the City, as described above, the Landowner further authorizes the City to collect said expenses from the Landowner through other appropriate legal action, with the Landowner to be liable for the reasonable costs of collection, court costs, and attorney fees.

10. This Agreement imposes no liability of any kind whatsoever on the City, and the Landowner agrees to hold the City harmless from any liability in the event the stormwater management/BMP facilities fail to operate properly.
11. This Agreement shall be recorded among the land records of Hamblen County, Tennessee, and shall constitute a covenant running with the land, and shall be binding on the Landowner, its administrators, executors, assigns, heirs and any other successors in interest.

WITNESS the following signatures and seals:

Walters Ridge Apartments, L.P.

Company/Corporation/Partnership Name (Seal)

By: John T. Huff, Jr.

Walters Ridge GP, LLC a Tennessee Limited Liability Company

John T. Huff, Jr., Chief Manager

(Type Name)

Chief Manager of the General Partner

(Type Title)

State of Alabama

County of Lee

The foregoing Agreement was acknowledged before me this 1 day of June, 2017.

by John T. Huff, Jr.

Paula A. Nutter

Notary Public Paula A. Nutter

My Commission Expires November 18, 2018

Approved as to form:

Paula A. Nutter 6-19-17

City Attorney

Date

Approved by the City:

Mayor

Date

MORRISTOWN UTILITIES COMMISSION

441 West Main Street

P.O. Box 667

Morristown, Tennessee 37815

Phone: (423) 586-4121 Fax: (423) 587-6590

www.musfiber.net

June 30, 2017

Mr. Tony Cox
City Administrator
P. O. Box 1499
Morristown, Tennessee 37815

Dear Tony,

I am forwarding the resolution adopted by the Morristown Utilities Commission at the board meeting June 30, 2017, which identifies three nominees for the first submission of the Board vacancy currently held by Lynn Elkins.

We do not require applications and resumes are not available at present. For additional information, you can reach the nominees at these numbers:

Lynn Elkins
3111 Camilla Ave
Morristown, TN
(423) 581-4294

David Gurley, Plant Manager, Team Technologies
1435 Darbee Drive
Morristown, TN
(423) 312-8553

Glenn Thompson, CPA (Retired)
1025 Walters Drive
Morristown, TN
(423) 581-8725

Sincerely,



Joseph S. Wigington
General Manager

cc: Mayor Gary Chesney

RESOLUTION NO. 2017-06-08
Submission for Board Member Vacancy

**BEING A RESOLUTION BY THE MORRISTOWN UTILITIES
COMMISSION FOR THE PURPOSE OF SUBMITTING TO THE MAYOR A
LIST OF THREE ELIGIBLE PERSONS FOR THE MAYOR'S NOMINATION
AND CITY COUNCILS' CONFIRMATION OF ONE SUCH PERSON TO
SERVE ON THE COMMISSION.**

WHEREAS, the City of Morristown, Tennessee (City) is a Municipal corporation created by the Private Acts of the Tennessee Legislature of 1903, Chapter 103; and

WHEREAS, The Morristown Utilities Commission (Commission) is a governmental entity with situs in Morristown, Tennessee, having been created by the Private Acts of the Tennessee Legislature of 1901, Chapter 392; and

WHEREAS, Chapter 392 of the Private Acts of the Tennessee Legislature for 1901 was amended and ratified by referendum on May 1, 2001 which increased the number of commissioners from three to five members, and provided a method for appointment of members; and

WHEREAS, Chapter 392 of the Private Acts of the Tennessee Legislature for 1901 was further amended and ratified by City Council on May 1, 2012 which amendment modified the method for appointment of commission members; and

WHEREAS, pursuant to this amendment, one vacancy exists on the Morristown Utilities Commission for a five year term beginning on August 1, 2017 and ending July 31, 2022.

NOW, THEREFORE BE IT RESOLVED BY THE MORRISTOWN UTILITIES COMMISSION, that in accordance with the method of appointment of Commission members, the following list of nominees are submitted to the Mayor of the City of Morristown for the existing vacancy, this being the first set of names following the MUC Charter change effective May 1, 2012.

1. Term beginning on Aug. 1, 2017 - Ending July 31, 2022.

- (a) Lynn Elkins
- (b) Glenn Thompson
- (c) David Gurley

PASSED in regular meeting of the Morristown Utilities Commission of the 30th day of June, 2017.

MORRISTOWN UTILITIES COMMISSION

BY: 

George McGuffin, Chairman of Board

Attest:



Commissioner



From the Desk of

Debbie Stamey
Deputy Clerk/Executive Assistant
(423) 585-4603
e-mail dstamey@mymorristown.com

TO: City Council

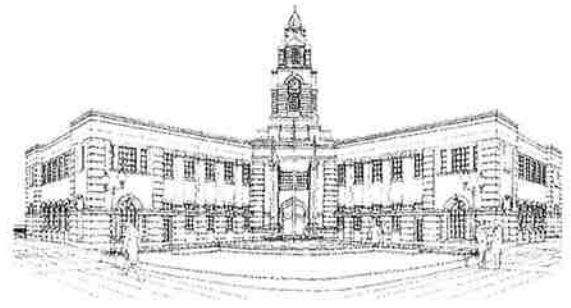
RE: APPOINTMENT OF BOARD/COMMISSION MEMBER

DATE: July 14, 2017

Mayor Chesney will appoint a new member to the Planning Commission to fill the remainder of K.C. Curberson-Alvarado's term, (due to her resignation), expiring on March 1, 2019.

Morristown Police Department

ROGER OVERHOLT
Chief of Police



July 6, 2017

Mayor and Councilmembers:

I have completed a background check on Gauri J. Patel D.O.B. 02/01/1984 for the purpose of signing a Certificate of Compliance for the retail package store that is currently doing business as The Package Store located 1506 S. Cumberland Street.

Based on my investigation, it is my belief that Mrs. Patel has not been convicted of a felony in the ***last 10 years***. She is eligible for renewal.

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
P.O. Box 1499
Morristown, TN 37816



Renewal Application for Certificate of Compliance

Important Notes

1. This application shall be verified by the applicant. In the event the applicant is a partnership or corporation, each partner or stockholder shall file an accompanying application.
2. This application must be submitted 10 days prior to the City Council meeting in which you wish to be considered. (City Council meets on the 1st & 3rd Tuesday of each month at 5:00 p.m.)

Personal Data (Please Print)

(In the event the applicant is a partnership or corporation, each partner or stockholder must submit a renewal application.)

Full name of applicant: Gauri J. Patel Date of Birth [REDACTED] 1984

Name of corporation, partnership or LLC: Om sai baba Inc.

Home Address: [REDACTED] Morristown TN Zip 37814

How long have you lived at current address 8 Yr. Home Phone [REDACTED]

[REDACTED] X 2 yrs. cell
Social Security #: [REDACTED] Drivers License #: [REDACTED]

Have you ever been convicted of any violation of a federal law, state law or municipal ordinance?

 Yes ✓ No

If "yes", specify offense, date, place of occurrence and disposition:

Store Name and Location

Store name: The Package Store

Street Address: 1506, S. Cumberland St. Morristown TN Zip 37813

Retail License Renewal Date 8/4/2017

I the undersigned applicant, do hereby authorize the City of Morristown, by and through its agents and representatives and employees, to make inquiry, whether verbal, written, or electronic of any and all law enforcement agencies or clerks of courts, whether, state, federal or local, concerning my criminal history of any convictions that I have had for any misdemeanor or felony, involving other than minor traffic violations, within the last ten (10) years from the date of this application.

I the undersigned realize that falsification of any portion of this application shall be grounds for rejection of the application. The applicant further agrees to comply with state, federal laws, city ordinances and the rules and regulations of the Alcoholic Beverage Commission and of the State Commissioner of Revenue with references to the sale of alcoholic beverages.

[Signature]
Signature of Applicant

6/26/2017
Date

REQUEST

To: Mayor and Council

From: Bill Honeycutt, Fire Chief

Date: July 11, 2017

RE: Confirmation of Disciplinary Action

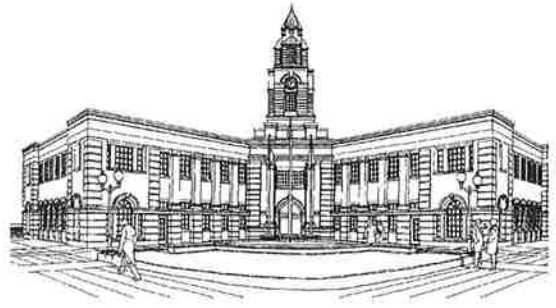
In compliance with Civil Service Rules, I'm requesting the Mayor and Council to confirm disciplinary action taken against a **Driver in the Fire Department** resulting from an accident involving a fire engine he was driving on June 13, 2017.

An internal investigation conducted by a three member Accident Review Committee ruled the accident to have been preventable. Additionally, Driver Wallace failed to follow established safety precautions and fire department guidelines by not requesting a "spotter" prior to backing an emergency vehicle. Brian will be served official documentation of the disciplinary action to be taken when he returns from vacation on July 14, 2017. Civil Service Rules require the Chief to seek confirmation from the regular appointing authority within 21 days of taking such action; therefore, the timing of my request.

The disciplinary action to be taken is as follows: **The Driver will be suspended one (1) shift without pay; the date of the suspended shift is to be chosen by the Chief of the Department in order to lessen financial cost to the City for overtime pay, etc. which may be impacted by minimum staffing levels within the fire department. Further, the written Disciplinary Action Form will become part of Wallace's personnel file.**

Morristown Police Department

ROGER OVERHOLT
Chief of Police



MEMORANDUM

To: Mayor Gary Chesney
City Council

From: Chief Roger D. Overholt

RDO/l

Date: July 13, 2017

Re: Entry Level Patrol Officer

I am requesting to hire one entry level patrol officer at the July 18th council meeting. Attached is the current civil service roster of eligible candidates. For one position we may consider any of the top three candidates. This position is to backfill a current vacancy.

Thank you.

RDO/ll

CIVIL SERVICE BOARD

P. O. Box 1499 • MORRISTOWN, TN 37816

POLICE DEPARTMENT ENTRY-LEVEL ROSTER

Revised on October 11, 2016 to reflect recent testing, **hiring** and /or corrections

	RANK AND NAME	EXPIRES
1	Michael Williams	31-Jul-17
2	Troy Rosenfels	31-Jul-17
3	Austin Miller	31-Jul-17
4	Robert Bolden	31-Jul-17
5	Brandon Skelton	31-Jul-17
6	Jeremy Hayes	31-Jul-17
7	Henry Russell	28-Feb-17
8	Nick Cline	31-Jul-17

For the Civil Service Board



Lee Parker, Chairman



Date