



**CITY OF LEBANON  
STORMWATER MANAGEMENT  
POLICIES AND PROCEDURES  
MANUAL**

November 19, 2012

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# STORMWATER MANAGEMENT ORDINANCE

## Section 1. General provisions.

(1) Purpose. It is the purpose of this ordinance to:

- (a) Protect, maintain, and enhance the environment of the City of Lebanon and the public health, safety and the general welfare of the citizens of the city, by controlling discharges of pollutants to the city's stormwater system and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the city;
- (b) To safeguard property and public welfare by regulating stormwater drainage and requiring temporary and permanent provisions for its control. It should be used as a planning and engineering implement to facilitate the necessary control of stormwater;
- (c) Enable the city to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR 122.26 for stormwater discharges;
- (d) Allow the City of Lebanon to exercise the powers granted in Tennessee Code Annotated § 68-221-1105, which provides that, among other powers cities have with respect to stormwater facilities, is the power by ordinance or resolution to:
  - (i) Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the city, whether or not owned and operated by the city;
  - (ii) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;
  - (iii) Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality;
  - (iv) Review and approve plans and plats for stormwater management in proposed subdivisions or commercial developments;
  - (v) Issue permits for stormwater discharges, or for the construction, alteration, extension, or repair of stormwater facilities;
  - (vi) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;
  - (vii) Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and

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

(2) Administering entity. The City Engineer shall administer the provisions of this ordinance.

(3) Right of Entry: The City Engineer shall make inspections and investigations, carry on research or take on such other actions as may be necessary to carry out this administration of regulations; enter at all reasonable times upon any property other than dwelling places for the purpose of conducting investigations and studies or enforcing any of the provisions of this ordinance, pursuant to TCA 69-3-107 (5) and (6).

**Section 2. Definitions.** For the purpose of this chapter, the following definitions shall apply: Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word “shall” is mandatory and not discretionary. The word “may” is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster’s Dictionary.

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

(2) “Best Management Practices” (“BMP’s”) means physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, that have been approved by the city engineer, and that have been incorporated by reference into this ordinance as if fully set out therein.

(3) “Blue Line Stream” is any stream, creek, lake, pond, or other body of water shown as a blue line on a 7.5 minute USGS quadrangle map. Please note, streams do not have to be “blue line streams” to be considered waters of the state.

(4) “Borrow Pit” is an excavation from which erodible material (typically soil) is removed to be fill for another site. There is no processing or separation of erodible material conducted at the site. Given the nature of activity and pollutants present at such excavation, a borrow pit is considered a construction activity for the purpose of this permit.

(5) “Brownfield” means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

- (6) “Buffer Zone” means a setback from the top of a water body’s bank of undisturbed vegetation, including trees, shrubs and herbaceous vegetation; enhanced or restored vegetation; or the re-establishment of native vegetation bordering streams, ponds, wetlands, springs, reservoirs or lakes, which exists or is established to protect those water bodies from non point source pollutants, including eroded soils.
- (7) “Channel” means a natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.
- (8) “City Engineer” is the person hired by the City of Lebanon to oversee the general engineering activities of the city and shall include his designated representative(s).
- (9) “Common plan of development or sale” 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, surveyor 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.
- (10) “Contaminant” means any physical, chemical, biological, or radiological substance or matter in water.
- (11) “Design storm event” means a hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a stormwater facility. The estimated design rainfall amounts, for any return period interval (i.e., 2-yr, 5-yr, 25-yr, etc.) in terms of either 24-hour depths or intensities for any duration, can be found by accessing the following NOAA National Weather Service Atlas 14 data for Tennessee: [http://hdsc.nws.noaa.gov/hdsc/pfds/pfds\\_map\\_cont.html?bkmrk=tn](http://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html?bkmrk=tn). Other data sources may be acceptable with prior written approval by TDEC Water Pollution Control.
- (12) “Discharge” means dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the municipal separate storm sewer system.

- (13) “Easement” means an acquired privilege or right of use or enjoyment that a person, party, firm, corporation, city or other legal entity has in the land of another.
- (14) “Enforcement Response Plan (ERP)” is a matrix of enforcement actions to be taken for noncompliance incidents.
- (15) “Erosion” means the removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by human activities or effects.
- (16) “Erosion prevention and sediment control plan (EPSCP)” means a written plan (including drawings or other graphic representations) that is designed to minimize the erosion and sediment runoff at a site during construction activities.
- (17) “Hotspot” means 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:
- (a) vehicle salvage yards and recycling facilities
  - (b) vehicle service and maintenance facilities
  - (c) vehicle and equipment cleaning facilities
  - (d) fleet storage areas (bus, truck, etc.)
  - (e) industrial sites (included on 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) other land uses and activities as designated by an appropriate review authority
- (18) “Illicit connections” means illegal and/or unauthorized connections to the municipal separate stormwater system whether or not such connections result in discharges into that system.
- (19) “Illicit discharge” means any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under §8(2).
- (20) “Impaired Waters” means any segment of surface waters that has been identified by the division as failing to support classified uses. The division periodically compiles a list of such waters know as the 303(d) list.

- (21) “Improved sinkhole” is a natural surface depression that has been altered in order to direct fluids into the hole opening. Improved sinkhole is a type of injection well regulated under TDEC’s Underground Injection Control (UIC) program. Underground injection constitutes an intentional disposal of waste waters in natural depressions, open fractures, and crevices (such as those commonly associated with weathering of limestone).
- (22) “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.
- (23) “Land disturbing activity” means any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation.
- (24) “Maintenance” means any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater facility.
- (25) “Maintenance agreement” means a document recorded in the land records that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.
- (26) “Municipal separate storm sewer system (MS4)” means the conveyances owned or operated by the city for the collection and transportation of stormwater, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains, and where the context indicates, it means the municipality that owns the separate storm sewer system.
- (27) “National Pollutant Discharge Elimination System permit” or a “NPDES permit” means a permit issued pursuant to 33 U.S.C. 1342.
- (28) “Off-site facility” means a structural BMP located outside the subject property boundary described in the permit application for land development activity.

- (29) “On-site facility” means a structural BMP located within the subject property boundary described in the permit application for land development activity.
- (30) “Peak flow” means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.
- (31) “Person” means any and all persons, natural or artificial, including any individual, firm or association and any municipal or private corporation organized or existing under the laws of this or any other state or country.
- (32) “Priority construction sites” are those sites adjacent to waters of the state listed on the 303d list or those that have been classified as exceptional water quality.
- (33) “Quality Assurance Site Assessment” is a documented site inspection to verify the functionality and performance of the SWPPP and for determining if construction, operation and maintenance accurately comply with permit requirements as presented. The site assessment shall be performed by a licensed professional engineer or landscape architect, a Certified Professional in Erosion and Sediment Control (CPESC) or a person that successfully completed the “Level II Design Principles for Erosion Preventions and Sediment Control for Construction Sites” course.
- (34) “Redevelopment” means the alteration of developed land that disturbs one acre or more, or less than an acre if part of a larger common plan of development, and increases the site or building impervious footprint, or offers a new opportunity for stormwater controls. The term is not intended to include activities as exterior remodeling, which would not be expected to cause adverse stormwater quality impacts.
- (35) “Runoff” means that portion of the precipitation on a drainage area that is discharged from the area into the municipal separate storm sewer system.
- (36) “Sediment” means solid material, both inorganic 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.
- (37) “Sedimentation” means soil particles suspended in stormwater that can settle in stream beds.
- (38) “Soils Report” means a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil

characterization either by performing the investigation or by directly supervising employees conducting the investigation.

- (39) “Stabilization” means providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.
- (40) “Stormwater” means stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.
- (41) “Stormwater entity” means the entity designated by the city to administer the stormwater management ordinance, and other stormwater rules and regulations adopted by the city.
- (42) “Stormwater management” means the programs to maintain quality and quantity of stormwater runoff to pre-development levels.
- (43) “Stormwater management facilities” means the drainage structures, conduits, ponds, ditches, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed of.
- (44) “Stormwater management plan” means the set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMP’s, concepts and techniques intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels.
- (45) “Stormwater Pollution Prevention Plan (SWPPP)” means 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. It must be prepared and approved before construction begins.
- (46) “Stormwater runoff” means flow on the surface of the ground, resulting from precipitation.
- (47) “Structural BMP’s” means facilities that are constructed to provide control of stormwater runoff.
- (48) “Surface water” includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other water courses, lakes and reservoirs.

- (49) “Waste site” means an area where waste material from a construction site is deposited. When the material is erodible, such as soil, the site must be treated as a construction site.
- (50) “Water Quality Buffer” see “Buffer”.
- (51) “Watercourse” means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.
- (52) “Watershed” means all the land area that contributes runoff to a particular point along a waterway.
- (53) “Waters” or “waters of the state” means 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.
- (54) “Wetland(s)” means 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.
- (55) “Wet weather conveyances” are man-made or natural watercourses, including natural watercourses that have been modified by channelization, that flow only in direct response to precipitation runoff in their immediate locality and whose channels are above the groundwater table and are not suitable for drinking water supplies; and 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. (Rules and Regulations of the State of Tennessee, Chapter 1200-4-3-.04(3)).

### **Section 3. Land Disturbance Permits.**

- (1) When Required.
- (a) Every person will be required to obtain a land disturbance permit from the City Engineer in the following cases:
- (1) Land disturbing activity disturbs one (1) or more acres of land;
  - (2) Land disturbing activity of less than one (1) acre of land if such activity is part of a larger common plan of development that affects one (1) or more acres of land;

- (3) Land disturbing activity of less than one (1) acre of land, if in the discretion of the City of Lebanon such activity poses a unique threat to water, or public health or safety;
  - (4) Land disturbing activity of less than one (1) acre of land, for projects or developments if:
    - i. The City Engineer has determined that the stormwater discharge from a site is causing, contributing to or is likely to contribute to a violation of a stormwater quality violation.
    - ii. The City Engineer has determined that a stormwater discharge is, or is likely to be a significant contributor of pollutants to waters of the state.
    - iii. Changes in State of 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.
    - iv. Any new development or redevelopment, regardless of size, that is defined by the City Engineer to be a hot spot land use.
  - (5) The creation and use of borrow pits where material is excavated and relocated offsite.
  - (6) Fills sites where materials or earth is deposited by mechanized methods resulting in an increase in elevation or grade.
- (2) Building Permit. No building permit shall be issued until the applicant has obtained a land disturbance permit where the same is required by this ordinance.
- (3) Exemptions. The following activities are exempt from the permit requirement:
- (a) Any emergency activity that is immediately necessary for the protection of life, property or natural resource.
  - (b) Existing nursery and agricultural operations conducted as permitted main or accessory use.
  - (c) Any logging or agricultural activity that is consistent with an approved farm conservation plan or a timber management plan prepared or approved by the appropriate federal or state agency.
  - (d) Additions or modifications to existing single family structures.
- (4) Application for a land disturbance permit.

- (a) Each application shall include the following:
- (1) Name of applicant;
  - (2) Business or residence address of applicant;
  - (3) Name, address and telephone number of the owner of the property of record in the office of the assessor of property;
  - (4) Address and legal description of subject property including the tax reference number and parcel number of the subject property;
  - (5) Name, address and telephone number of the contractor and any subcontractor(s) who shall perform the land disturbing activity and who shall implement the erosion and sediment control plan;
  - (6) A statement indicating the nature, extent and purpose of the land disturbing activity including the size of the area for which the permit shall be applicable and a schedule for the starting and completion dates of the land disturbing activity.
  - (7) Where the property includes a sinkhole, the applicant shall obtain from the Tennessee Department of Environment and Conservation appropriate permits.
  - (8) The applicant shall obtain from any other state or federal agency any other appropriate environmental permits that pertain to the property. However, the inclusion of those permits in the application shall not foreclose the City of Lebanon from imposing additional development requirements and conditions, commensurate with this ordinance, on the development of property covered by those permits.

(b) Each application shall be accompanied by:

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

(5) Review and approval of application.

(a) The City Engineer will review each application for a land disturbance permit to determine its conformance with the provisions of this ordinance. The city shall provide one of the following responses in writing:

- (1) Approval of the permit application;

- (2) Approval of the permit application, subject to such reasonable conditions as may be necessary to secure substantially the objectives of this ordinance, and issue the permit subject to these conditions; or
  - (3) Denial of the permit application, indicating the reason(s) for the denial.
- (b) If the city engineer has granted conditional approval of the permit, the applicant shall submit a revised plan that conforms to the conditions established by the city engineer. However, the applicant shall be allowed to proceed with his land disturbing activity so long as it conforms to conditions established by the city engineer.
  - (c) No development plans will be released until the land disturbance permit has been approved.
- (6) Permit duration.
- Every land disturbance permit shall expire and become null and void if substantial work (twenty-five percent {25%}) authorized by such permit has not commenced within one hundred eighty (180) calendar days of issuance, or is not complete within eighteen (18) months from the date of the commencement of construction. Should the land disturbance permit expire, the approval process must be repeated as well as all applicable fees paid if the owner/developer wishes to proceed with construction. Extensions shall be applied for thirty (30) calendar days prior to the end of the 18 month permit period.
- (7) Notice of construction.
- The applicant must notify the city engineer ten (10) working days in advance of the commencement of construction. Regular inspections of the stormwater management system construction shall be conducted by the city engineer.
- (8) Performance security.
- (a) The city engineer may, at its discretion, require the submittal of a performance security prior to issuance of a permit in order to ensure that the stormwater practices are installed by the permit holder as required by the approved stormwater management plan. The amount of the installation performance security shall be the total estimated construction cost of the structural BMPs approved under the permit plus any reasonably foreseeable additional related costs, e.g., for damages or enforcement. [Or plus a certain percentage of the total estimated costs.] The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan. The

applicant shall provide an itemized construction cost estimate complete with unit prices which shall be subject to acceptance, amendment or rejection by the city engineer. Alternatively, the city engineer shall have the right to calculate the cost of construction cost estimates.

- (b) A performance security will be required prior to the release of the Certificate of Occupancy for any incomplete site improvements if one has not been previously posted. The only time that posting of a performance security will be accepted over completing the project, is in the case of inclement weather which has made site work difficult to finish. The amount of the performance security shall be the total estimated construction cost of all incomplete items plus 10%. The applicant shall provide an itemized construction cost estimate complete with unit prices which shall be subject to acceptance, amendment or rejection by the city engineer. Alternatively, the city engineer shall have the right to calculate the cost of construction cost estimates.
- (c) Acceptable forms of a performance security are Letters of Credit in the City's required format or cash.
- (d) The performance security shall be released in full only upon submission of as-built plans and written certification by a registered professional engineer licensed to practice in Tennessee that the structural BMP has been installed in accordance with the approved plan and other applicable provisions of this ordinance. The city engineer will make a final inspection of the structural BMP to ensure that it is in compliance with the approved plan and the provisions of this ordinance. Provisions for a partial pro-rata release of the performance security based on the completion of various development stages can be made at the discretion of the city engineer.

#### **Section 4. Waivers.**

- (1) General. No waivers will be granted to any construction or site work project. All construction and site work shall provide for stormwater management as required by this ordinance. However, alternatives to the 2010 NPDES General Permit for Discharges from Small Municipal Separate Storm Sewer Systems primary requirement for on-site permanent stormwater management may be considered, if:
  - (a) Management measures cannot be designed, built and maintained to infiltrate, evapotranspire, harvest and/or use, at a minimum, the first inch of every rainfall event preceded by 72 hours of no measurable precipitation. This first inch of rainfall must be 100% managed with no discharge to surface waters.

- (2) Downstream damage, etc. prohibited. In order to receive consideration, the applicant must demonstrate to the satisfaction of the City Engineer that the proposed alternative will not lead to any of the following conditions downstream:
  - (a) Deterioration of existing culverts, bridges, dams, and other structures;
  - (b) Degradation of biological functions or habitat;
  - (c) Accelerated streambank or streambed erosion or siltation;
  - (d) Increased threat of flood damage to public health, life or property.
- (3) Grading permit not to be issued where alternatives requested. No grading permit shall be issued where an alternative has been requested until the alternative is approved. If no alternative is approved, the plans must be resubmitted with a stormwater management plan that meets the primary requirement for on-site stormwater management.

**Section 5. Stormwater System Design: Construction and Permanent Stormwater Management.**

- (1) MS4 Stormwater design or BMP manuals.
  - (a) Adoption. The city adopts as its MS4 stormwater design and best management practices (BMP) manuals for stormwater management, construction and permanent, the following publications, which are incorporated by reference in this ordinance as if fully set out herein:
    - (i) TDEC Erosion Prevention and Sediment Control Handbook; most current edition.
    - (ii) The Nashville-Davidson County Metro Stormwater Management Manual (LOW IMPACT DEVELOPMENT (LID) MANUAL -Volume 5); most current edition.
    - (iii) The Nashville-Davidson County Metro Stormwater Management Manual (BEST MANAGEMENT PRACTICES (BMP) MANUAL - Volume 4); most current edition.
    - (iv) A collection of MS4 approved BMP's developed or collected by the MS4 that comply with the goals of the MS4 permit and/or the CGP.
  - (b) The city's BMP manual(s) include a list of acceptable BMP's including the specific design performance criteria and operation and maintenance requirements for each stormwater practice. These include city approved BMP's for permanent stormwater management including green infrastructure BMP's.
  - (c) The city manual(s) may be updated and expanded from time to time, at the discretion of the governing body of the city, upon the recommendation of the City Engineer, 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 BMP criteria will be presumed to meet the minimum water quality performance standards.

(2) Land development. This section shall be applicable to all land development, including, but not limited to, site plan applications, subdivision applications, land disturbance applications and grading applications. These standards apply to any new development or redevelopment site that meets one or more of the following criteria:

- (a) One (1) acre or more;
  - (1) New development that involves land development activities of one (1) acre or more;
  - (2) Redevelopment that involves other land development activity of one (1) acre or more;
- (b) Projects or developments of less than one acre of total land disturbance may also be required to obtain authorization under this ordinance if:
  - (1) the City of Lebanon has determined that 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 City of Lebanon has determined that the stormwater discharge is, or is likely to be a significant contributor of pollutants to waters of the state;
  - (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;
  - (4) Any new development or redevelopment, regardless of size, that is defined by the City of Lebanon to be a hotspot land use; or
  - (5) Minimum applicability criteria set forth in item (a) above if such activities are part of a larger common plan of development, even multiple, which is part of a separate and distinct land development activity that may take place at different times on different schedules.

Note: Any discharge of stormwater or other fluid to an improved sinkhole or other injection well, as defined, must be authorized by permit or rule as a Class V underground injection well under the provisions of Tennessee Department of Environment and Conservation (TDEC) Rules, Chapter 1200-4-6.

(3) Submittal of a copy of the NOC, SWPPP and NOT to the City Engineer  
Permittees who discharge stormwater through an NPDES-permitted municipal separate storm sewer system (MS4), who are not exempted in section 1.4.5 (Permit Coverage through Qualifying Local Program) of the Construction

General Permit (CGP), must provide proof of coverage under the Construction General Permit (CGP); submit a copy of the Stormwater Pollution Prevention Plan (SWPPP); and at project completion, a copy of the signed notice of termination (NOT) to the City Engineer. Permitting status of all permittees covered (or previously covered) under this general permit as well as the most current list of all MS4 permits is available at the TDEC's DataViewer web site. Copies of additional applicable local, state or federal permits (i.e.: ARAP, etc.) must also be provided upon request. If requested, these permits must be provided before the issuance of any land disturbance permit or the equivalent.

- (4) Stormwater Pollution Prevention Plan (SWPPP) for Construction Stormwater Management: The applicant must prepare a stormwater pollution prevention plan for all construction activities that complies with subsection (8) below. The purpose of this plan is to identify construction/contractor activities that could cause pollutants in the stormwater, and to describe measures or practices to control these pollutants during project construction.
- (5) Stormwater Pollution Prevention Plan requirements. The erosion prevention and sediment control plan component of the SWPPP 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 these problems. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and potential for off-site damage. If necessary, the plan shall be phased so that changes to the site during construction that alter drainage patterns or characteristics will be addressed by an appropriate phase of the plan. The plan shall be sealed by a registered professional engineer or landscape architect licensed in the state of Tennessee. The plan shall also conform to the requirements found in the most current TDEC Erosion Prevention and Sediment Control Handbook, and shall include at least the following:
  - (a) Project description - Briefly describe the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required.
  - (b) A topographic map with contour intervals of five (5) feet or less showing present conditions and proposed contours resulting from land disturbing activity.
  - (c) All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or flood plains.
  - (d) A general description of existing land cover. Individual trees and shrubs do not need to be identified.
  - (e) 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 exceptional and historic trees in 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.

- (f) Approximate limits of proposed clearing, grading and filling.
- (g) Approximate flows of existing stormwater leaving any portion of the site.
- (h) A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.
- (i) Location, size and layout of proposed stormwater and sedimentation control improvements.
- (j) Existing and proposed drainage network.
- (k) Proposed drain tile or waterway sizes.
- (l) 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.
- (m) The projected sequence of work represented by the grading, drainage and 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 BMP's.
- (n) Specific remediation measures to prevent erosion and sedimentation run-off. Plans shall include detailed drawings of all control measures used; stabilization measures including vegetation and non-vegetation measures, both temporary and permanent, will be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan.
- (o) Specific details for: the construction of stabilized construction entrance/exits, concrete washouts, and sediment basins for controlling erosion; road access points; eliminating or keeping soil, sediment, and debris on streets and public ways at a level acceptable to the city. 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. Failure to remove the sediment, soil or debris shall be deemed a violation of this ordinance.
- (p) Proposed structures: location and identification of any proposed additional buildings, structures or development on the site.

- (q) A description of on-site measures to be taken to recharge surface water into the ground water system through runoff reduction practices.
  - (r) Specific details for construction waste management. 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.
  - (s) The plan shall include detailed drawings of all structural and non-structural controls and stabilization measures which shall be designed to minimize erosion and maximize sediment removal resulting in storm water discharge associated with the two (2) year, twenty-four (24) hour design storm event as a minimum, either from total rainfall in the designated period or the equivalent intensity as specified on the following website  
[http://hdsc.nws.noaa.gov/hdsc/pfds/pfds\\_map\\_cont.html?bkmrk=tn](http://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html?bkmrk=tn) These specific details for constructing stabilized construction entrance/exits, concrete washouts, sediment basins for controlling erosion, and road access points should be designed to eliminate or keep soils, sediment and/or debris to a minimum.
  - (t) When land disturbance activities are proposed along 303(d) listed streams impaired for siltation or know high quality waterways, the erosion and sediment control plan shall be designed at a minimum to control the discharge of a five (5) year, twenty-four (24) hour storm event along with other additional minimum standards outlined in the current Tennessee Construction General Permit (CGP).
- (6) General design performance criteria for permanent stormwater management (Items a-g Effective 6/8/2015): the following performance criteria shall be addressed for permanent stormwater management at all development sites:
- (a) Site design standards for all new and redevelopment require, in combination or alone, management measures that are designed, built and maintained to infiltrate, evapotranspire, harvest and/or use, at a minimum, the first inch of every rainfall event preceded by 72 hours of no measurable precipitation. This first inch of rainfall must be 100% managed with no discharge to surface waters.
  - (b) Limitations to the application of runoff reduction requirements include, but are not limited to:
    - i. Where a potential for introducing pollutants into the groundwater exists, unless pretreatment is provided;
    - ii. Where pre-existing soil contamination is present in areas subject to contact with infiltrated runoff;
    - iii. Presence of sinkholes or other karst features.

- (c) Pre-development infiltrative capacity of soils at the site must be taken into account in selection of runoff reduction management measures.
- (d) Incentive Standards for re-developed sites: a 10% reduction in the volume of rainfall to be managed for any of the following types of development. Such credits are additive such that a maximum reduction of 50% of the standard in the paragraph above is possible for a project that meets all 5 criteria:
  - i. Redevelopment;
  - ii. Brownfield redevelopment;
  - iii. (iii)High density (>7 units per acre);
  - iv. (iv)Vertical Density, (Floor to Area Ratio (FAR) of 2 or >18 units per acre); and
  - v. Mixed use and Transit Oriented Development (within ½ mile of transit).
- (e) For projects that cannot meet 100% of the runoff reduction requirement unless subject to the incentive standards, the remainder of the stipulated amount of rainfall must be treated prior to discharge with a technology documented to remove 80% total suspended solids (TSS) unless an alternative provided under this ordinance is approved. The treatment technology must be designed, installed and maintained to continue to meet this performance standard.
- (f) For projects that cannot meet 100% of the runoff reduction requirements, the City Engineer may allow runoff reduction measures to be implemented at another location within the same USGS 12-digit hydrologic unit code (HUC) as the original project. Off-site mitigation must be a minimum of 1.5 times the amount of water not managed on site. The off-site mitigation location (or alternative location outside the 12-digit HUC) and runoff reduction measures must be approved by the City Engineer. The City Engineer shall identify priority areas within the watershed in which mitigation projects can be completed. The City Engineer must create an inventory of appropriate mitigation projects, and develop appropriate institutional standards and management systems to value, evaluate and track transactions. Mitigation can be used for retrofit or redevelopment projects, but should be avoided in areas of new development.
- (g) For projects that cannot meet 100% of the runoff reduction and pollutant removal standards, and cannot provide for off-site mitigation, the City of Lebanon may allow the owner to make payment in a public stormwater project fund established by the City of Lebanon. Payment into the public stormwater fund must be at a minimum 1.5 times the estimated cost of on-site reduction controls.
- (h) To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the most current TDEC Erosion Prevention and Sediment Control Handbook.

- (i) Stormwater discharges to critical areas with sensitive resources (i.e., 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.
  - (j) Stormwater discharges from hot spots may require the application of specific structural BMP's and pollution prevention practices. In addition, stormwater from a hot spot land use may not be infiltrated.
  - (k) Prior to or during the site design process, applicants for land disturbance permits shall consult with the City Engineer to determine if they are subject to additional stormwater design requirements.
- (7) Minimum volume control requirements (Detention). In accordance with §1(1)(c)(iii) the City Engineer may establish standards to regulate the quantity of stormwater discharged. Therefore, a stormwater detention system is required for all subdivision and site development projects unless otherwise approved in writing by the City of Lebanon Commissioner of Public Works or authorized agent. The detention system must meet the following requirements:
- (a) Stormwater designs shall meet the multi-stage storm frequency storage requirements to control peak flows of stormwater discharge associated with the One (1) year, two (2) year, five (5) year, ten (10) year and twenty-five (25) year NRCS Type II twenty-four (24) hour design storm frequency as follows: 1-year through the 25-year post-development stormwater runoff discharge rate must be equal to or less than 1-year through 25-year pre-development stormwater runoff discharge rate.
  - (b) The outlet structure shall be designed to detain the excess runoff difference between the pre-development and post-development flows, through the 25-year storm as required in item (a). The storm water runoff for the 2-year, 5-year, 10-year, 25-year, 50 and 100-year storm shall be routed through the stormwater detention basin.
  - (c) If the calculated runoff for the 50-year or 100-year storm overtops the basin, then an emergency overflow weir shall be provided with the outlet from this weir being designed to prohibit erosion of the basin wall.
  - (d) A minimum of one foot (1') of freeboard is desirable.
  - (e) Detentions systems must be constructed during the initial phase of the development as applicable to the phase being developed.
  - (f) When deemed appropriate and approved by the City of Lebanon Commissioner of Public Works or authorized agent, offsite or downstream improvements may be made in lieu of onsite detention.
  - (g) If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the City

Engineer may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

- (h) Pervious areas should be utilized for stormwater treatment and to infiltrate stormwater runoff from sidewalks, driveways, parking lots, rooftops and landscaped areas to the maximum extent practical. These practices provide treatment for both water quality and quantity

(8) Permanent Stormwater management plan requirements. The stormwater management plan shall include sufficient information to allow the City Engineer 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. To accomplish this goal the stormwater management plan shall include the following:

- (a) Topographic base map: Topographic base map of the site which extends a minimum of 100 feet beyond the limits of the proposed development and indicates:
  - i. Existing surface water drainage including streams, ponds, culverts, ditches, sink holes, wetlands; and the type, size, elevation, etc., of nearest upstream and downstream drainage structures;
  - ii. Current land use including all existing structures, locations of utilities, roads, and easements;
  - iii. All other existing significant natural and artificial features;
  - iv. Proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading.
- (b) Proposed structural and non-structural BMP's;
- (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 for the pre-development and post-development conditions for the design storms specified in §5(7). These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this ordinance. Such calculations shall include:
  - v. A description of the design storm frequency, duration, and intensity where applicable;
  - vi. Time of concentration;
  - vii. Soil curve numbers or runoff coefficients including assumed soil moisture conditions;
  - viii. Peak runoff rates and total runoff volumes for each watershed area;

- ix. Infiltration rates, where applicable;
- x. Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;
- xi. Flow velocities;
- xii. Data on the increase in rate and volume of runoff for the design storms referenced in the MS4 BMP manual; and
- xiii. 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.

(9) Maintenance and repair plan. The design and planning of all permanent stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.

(10) Buffer Zone Requirements. The water quality buffer zone is required to protect waters of the state (e.g., perennial and intermittent streams, rivers, lakes, wetlands) located within or immediately adjacent to the boundaries of the project. The goal of the water quality buffer is to preserve undisturbed vegetation that is native to the streamside habitat in the area of the project. Vegetated, preferable native, water quality buffers protect water bodies by providing structural integrity and canopy cover, as well as stormwater infiltration, filtration and evapotranspiration. Buffer zones are not primary sediment control measures and should not be relied upon as such. Rehabilitation, restoration and enhancement of a natural buffer zone is allowed, if necessary, for improvement of its effectiveness of protection of the waters of the state with proper permit(s).

(a) Permanent Vegetative Buffer

Permanent buffers shall be maintained adjacent to all waters of the state including perennial and intermittent streams, rivers, ponds, lakes and wetlands. All new development and redevelopment sites are required to preserve water quality buffers. Buffers shall be clearly marked on site development plans, plats, grading permit applications, and/or concept plans. Buffer width depends on the size of a drainage

area and/or status of receiving stream (impaired or high quality/exceptional).

i. *Streams or other drainage areas less than 1 square mile*

An undisturbed vegetative buffer of thirty (30) feet minimum (as measured from the top-of-bank) shall be maintained.

ii. *Streams or other drainage areas greater than or equal to 1 square mile*

An undisturbed vegetative buffer of sixty (60) feet minimum (as measured from the top-of-bank) shall be maintained. The 60-foot criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than 30 feet at any measured location.

iii. *Impaired or High Quality/Exceptional Streams*

An undisturbed vegetative buffer of sixty (60) feet minimum (as measured from the top-of-bank) shall be maintained. The 60-foot criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than 30 feet at any measured location.

(b) **Construction Buffer**

A construction buffer applies to all waters of the state adjacent to construction sites. Every effort shall be made for construction activities to not take place within the buffer and the buffer should remain in its undisturbed vegetated state.

i. A 30-foot natural riparian buffer zone adjacent to all waters of the state at the construction site shall be preserved, to the maximum extent practical, during construction activities at the site except for those designated as impaired or high quality/exceptional by TDEC. The 30-foot criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than 15 feet at any measured location.

ii. A 60-foot natural riparian buffer zone adjacent to all receiving streams designated as impaired or high quality/exceptional waters shall be preserved, to the maximum extent practical, during construction activities at the site. The 60-foot criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than 25 feet at any measured location.

(c) Variance

Every attempt should be made for development and redevelopment activities to not take place within the buffer zone. If water quality widths, as defined above, cannot be fully accomplished on-site, the City of Lebanon Public Works Committee may grant a variance to the water quality buffer requirements. When a variance is granted by the Public Works Committee, mitigation must be at least as protective of the natural resources and the environment as the undisturbed buffer. A determination that standards cannot be met may not be based solely on the difficulty or cost of implementing measures, but must include multiple criteria, such as type of project, existing land use and physical conditions that preclude use of these practices.

If it is not feasible to provide an undisturbed naturally vegetated buffer, of any size, between the disturbed portion of the site and any waters of the state, sediment and erosion controls certified by a TN licensed professional engineer to achieve the equivalent sediment load reduction as an undisturbed naturally vegetated, 30-foot buffer (or 60-foot for impaired or exceptional streams) may be implemented on approval by the City Engineer. A justification for use and design shall be included in the SWPPP. These projects include, but are not limited to, utility line construction, roadway construction, greenway construction, construction of a permanent outfall or a velocity dissipating structures, etc.

(d) Exemption

If pre-existing development on the site has resulted in significant disturbances within the 30-foot or 60-foot buffer (for example, sites where all vegetation in the 30-foot buffer areas has been removed and replaced with impervious surfaces as a result of prior development), the site is exempt from complying with the buffer requirements as long as the area of encroachment is not extended.

**Section 6. Permanent Stormwater Management: Operation, Maintenance, and Inspection.**

- (1) As built plans. All applicants are required to submit actual as built plans for any structures located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be sealed by a registered professional engineer licensed to practice in Tennessee. A final inspection by the City of Lebanon is required before any performance security will be released. The City of Lebanon shall have the discretion to adopt provisions for a partial pro-rata release of the performance security on the completion of various stages of development. In addition, occupation permits shall not be granted until corrections to all BMP's

have been made and accepted by the City of Lebanon. Instructions and certification required for providing as-built information is found in Appendix A of this manual.

(2) Landscaping and stabilization requirements.

(a) Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall be stabilized. Stabilization measures shall be initiated as soon as possible in portions of the site where construction activities have temporarily or permanently ceased. Temporary or permanent soil stabilization at the construction site (or a phase of the project) must be completed not later than 14 days (7 days for slopes greater than 35%) after the construction activity in that portion of the site has temporarily or permanently ceased. In the following situations, temporary stabilization measures are not required:

- (i) where the initiation of stabilization measures is precluded by snow cover or frozen ground conditions or adverse soggy ground conditions, stabilization measures shall be initiated as soon as practicable; or
- (ii) where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within 14 days.

(b) 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.

(c) The following criteria shall apply to revegetation efforts:

- (i) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.
- (ii) 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.
- (iii) Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.
- (iv) In addition to the above requirements, a landscaping plan must be submitted with the final 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.

- (3) Inspection of stormwater management facilities. Periodic inspections of facilities shall be performed, documented, and reported in accordance with this chapter, as detailed in §7.
- (4) Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at least three (3) years. These records shall be made available to the city during inspection of the facility and at other reasonable times upon request.
- (5) Failure to meet or maintain design or maintenance standards. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this chapter, the city, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the city shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the city may take necessary corrective action. The cost of any action by the city under this section shall be charged to the responsible party.

## **Section 7. Existing Locations and Ongoing Developments.**

- (1) On-site stormwater management facilities maintenance agreement:
  - (a) Where the stormwater facility is located on property that is subject to a development agreement, and the development agreement provides for a permanent stormwater maintenance agreement that runs with the land, the owners of property must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owners and all subsequent property owners and their lessees and assigns, including but not limited to, homeowner associations or other groups or entities.
  - (b) The maintenance agreement (see Appendix C for draft) shall:
    - (1) Assign responsibility for the maintenance and repair of the stormwater facility to the owners of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.
    - (2) Provide for a periodic inspection by the property owners in accordance with the requirements below for the purpose of documenting maintenance

and repair needs and to ensure compliance with the requirements of this ordinance. The property owners will arrange for this inspection to be conducted by a registered professional engineer licensed to practice in the State of Tennessee, who will submit a signed written report of the inspection to the City of Lebanon. It shall also grant permission to the city to enter the property at reasonable times and to inspect the stormwater facility to ensure that it is being properly maintained.

- (3) Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, cutting and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other stormwater facilities. It shall also provide that the property owners shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the MS4 BMP manual.
  - (4) Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the City of Lebanon.
  - (5) Provide that if the property is not maintained or repaired within the prescribed schedule, the City of Lebanon shall perform the maintenance and repair at its expense, and bill the same to the property owner. The maintenance agreement shall also provide that the City of Lebanon's cost of performing the maintenance shall be a lien against the property.
- (2) Existing problem locations – no maintenance agreement.
- (a) The City of Lebanon shall in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problems affecting or caused by such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance. Discharges from existing BMP's that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit.
  - (b) Inspection of existing facilities. The city may, to the extent authorized by state and federal law, enter and inspect private property for the purpose of determining if there are illicit non-stormwater discharges, and to establish inspection programs to verify that all stormwater management facilities are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the city'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, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMP's.

- (3) Owner/Operator Inspections - generally. The owners and/or the operators of stormwater management practices shall:
- (a) Perform routine inspections to ensure that the BMP's 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. The City of Lebanon may require submittal of this documentation.
  - (b) Perform comprehensive inspection 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 a professional engineer or landscape architect, licensed in the State of Tennessee. Complete inspection reports for these five year inspections shall include:
    - (i) Facility type,
    - (ii) Inspection date,
    - (iii) Latitude and longitude and nearest street address,
    - (iv) BMP owner information (e.g. name, address, phone number, fax, and email),
    - (v) A description of BMP condition including: vegetation and soils; inlet and outlet channels and structures; embankments, slopes, and safety benches; spillways, weirs, and other control structures; and any sediment and debris accumulation,
    - (vi) Photographic documentation of BMP's, and
    - (vii) Specific maintenance items or violations that need to be corrected by the BMP owner along with deadlines and reinspection dates.
  - (c) Owners or operators shall maintain documentation of these inspections. The City of Lebanon may require submittal of this documentation.
- (4) Requirements for all existing locations and ongoing developments. The following requirements shall apply to all locations and development at which land disturbing activities have occurred previous to the enactment of this ordinance:
- (a) Denuded areas must be vegetated or covered under the standards and guidelines specified in §5(2)(c)(i), (ii), (iii) and on a schedule acceptable to the City of Lebanon.
  - (b) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.
  - (c) Drainage ways shall be properly covered in vegetation or secured with rip-rap, channel lining, etc., to prevent erosion.
  - (d) Trash, junk, rubbish, etc. shall be cleared from drainage ways.

- (e) Stormwater runoff shall, at the discretion of the City of Lebanon Public Works Department be controlled to the maximum extent practicable to prevent its pollution. Such control measures may include, but are not limited to, the following:
  - (i) Ponds
    - (1) Detention pond
    - (2) Extended detention pond
    - (3) Wet pond
    - (4) Alternative storage measures
  - (ii) Constructed wetlands
  - (iii) Infiltration systems
    - (1) Infiltration/percolation trench
    - (2) Infiltration basin
    - (3) Drainage (recharge) well
    - (4) Porous pavement
  - (iv) Filtering systems
    - (1) Catch basin inserts/media filter
    - (2) Sand filter
    - (3) Filter/absorption bed
    - (4) Filter and buffer strips
  - (v) Open channel
    - (1) Swale

(5) Corrections of problems subject to appeal. Corrective measures imposed by the City of Lebanon under this section are subject to appeal under section 11 of this ordinance.

**Section 8. Illicit Discharges.**

- (1) Scope. This section shall apply to all water generated on developed or undeveloped land entering the city’s separate storm sewer system.
- (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 or any discharge that flows from stormwater facility that is not inspected in accordance with §7 shall be an illicit discharge. Non-stormwater discharges shall include, but shall not be limited to, sanitary wastewater, car wash wastewater, radiator flushing disposal, spills from roadway accidents, carpet cleaning wastewater, effluent from septic tanks, improper oil disposal, laundry wastewater/gray water, improper disposal of auto and household toxics. The commencement, conduct or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited except as described as follows:
  - (a) Uncontaminated discharges from the following sources:
    - (i) Water line flushing or other potable water sources;
    - (ii) Landscape irrigation or lawn watering with potable water;

- (iii) Diverted stream flows;
  - (iv) Rising ground water;
  - (v) Groundwater infiltration to storm drains;
  - (vi) Pumped groundwater;
  - (vii) Foundation or footing drains;
  - (viii) Crawl space pumps;
  - (ix) Air conditioning condensation;
  - (x) Springs;
  - (xi) Non-commercial washing of vehicles;
  - (xii) Natural riparian habitat or wetland flows;
  - (xiii) Swimming pools (if dechlorinated - typically less than one PPM chlorine);
  - (xiv) Firefighting activities;
  - (xv) Any other uncontaminated water source.
- (b) Discharges specified in writing by the city as being necessary to protect public health and safety.
- (c) Dye testing is an allowable discharge if the city has so specified in writing.
- (d) Discharges authorized by the Construction General Permit (CGP), which comply with Section 3.5.9 of the same:
- (i) dewatering of work areas of collected stormwater and ground water (filtering or chemical treatment may be necessary prior to discharge);
  - (ii) 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;
  - (iii) water used to control dust in accordance with CGP section 3.5.5;
  - (iv) potable water sources including waterline flushings from which chlorine has been removed to the maximum extent practicable;
  - (v) routine external building washdown that does not use detergents or other chemicals;
  - (vi) uncontaminated groundwater or spring water; and
  - (vii) foundation or footing drains where flows are not contaminated with pollutants (process materials such as solvents, heavy metals, etc.).

(3) 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.

(4) Reduction of stormwater pollutants by the use of best management practices. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMP's 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 BMP's that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit.

- (5) Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into, the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the city 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 city within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.
- (6) No illegal dumping allowed. 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 city.

## **Section 9. Enforcement.**

- (1) Enforcement authority. The City of Lebanon shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this section. Measures authorized include:
- (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 of Lebanon has 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 or Other Authorizations** – Where a facility is in noncompliance, the City of Lebanon’s own approval process affecting the facility’s ability to discharge to the City of Lebanon can be used to abate the violation.

(f) **Additional Measures** – The City of Lebanon may also use other escalated measures provided under local legal authorities. The City of Lebanon may perform work necessary to improve erosion control measures and collect the funds from the responsible party in an appropriate manner, such as collecting against the project’s bond or 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 inspector when it appears the condition can be corrected by the violator within a reasonable time, which time shall be approved by the inspector.

(b) **Written notice.** Whenever the City of Lebanon 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 of Lebanon may serve upon such person written notice of the violation. Within ten (10) days of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the City of Lebanon. 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 of Lebanon 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 of Lebanon may order any person who violates this chapter or permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.

(e) Compliance order. When the City of Lebanon finds that any person has violated or continues to violate this ordinance or a permit or order issued thereunder, he 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 of Lebanon finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder, the City of Lebanon may issue a stop work order or an order to cease and desist all such violations and direct those persons in noncompliance to:

(i) Comply forthwith; or

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

(g) Suspension, revocation or modification of permit. The City of Lebanon may suspend, revoke or modify the permit authorizing the land development project or any other project of the applicant or other responsible person within the city. 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 of Lebanon Public Works Department may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

(h) Conflicting standards. Whenever there is a conflict between any standard contained in this ordinance and in the BMP manual adopted by the city under this ordinance, the strictest standard shall prevail.

(3) Enforcement Response Plan (ERP). The City's ERP (see Appendix B) provides an enforcement action matrix for inspector's reference for failure to comply with construction requirements, illicit discharge removal and post-construction requirements.

## **Section 10. Penalties.**

(1) Violations. Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses

to comply with any lawful communication or notice to abate or take corrective action by the City of Lebanon, shall be guilty of a civil offense.

- (2) 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 Lebanon Public Works Department of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.
- (3) Measuring civil penalties. In assessing a civil penalty, the City of Lebanon 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 city;
  - (f) The amount of penalty established by ordinance or resolution for specific categories of violations; and
  - (g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.
- (4) Recovery of damages and costs. In addition to the civil penalty 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) 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 progressive enforcement to achieve compliance with this ordinance, and in the judgment of the city has not been successful, the city may refer the violation to TDEC. For the purposes of this provision, "progressive enforcement" shall mean two (2) follow-up inspections and two (2) warning letters. In addition, enforcement referrals to TDEC must include, at a minimum, the following information:
  - (a) Construction project or industrial facility location;
  - (b) Name of owner or operator;
  - (c) Estimated construction project or size or type of industrial activity (including SIC code, if known);
  - (d) Records of communications with the owner or operator regarding the violation, including at least two follow-up inspections, two warning letters or notices of violation, and any response from the owner or operator.
- (6) Other remedies. The city may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.

- (7) Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted.

**Section 11. Appeals.** Pursuant to Tennessee Code Annotated § 68-221-1106(d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this chapter may appeal said penalty or damage assessment to the city's governing body.

- (1) Appeals to be in writing. The appeal shall be in writing and filed with the municipal recorder or clerk within fifteen (15) days after the civil penalty and/or damage assessment is served in any manner authorized by law.
- (2) Public hearing. Upon receipt of an appeal, the city's governing body, or other appeals board established by the city's governing body shall hold a public hearing within thirty (30) days. Ten (10) days prior notice of the time, date, and location of said hearing shall be published in a daily newspaper of general circulation. Ten (10) days' notice by registered mail shall also be provided to the aggrieved party, such notice to be sent to the address provided by the aggrieved party at the time of appeal. The decision of the governing body of the city shall be final.
- (3) Appealing decisions of the city's governing body. Any alleged violator may appeal a decision of the city's governing body pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8.

## STORMWATER AS-BUILT REQUIREMENTS

The following is required per the City of Lebanon's Stormwater Management Ordinance, Section 6: Permanent Stormwater Management: Operation, Maintenance and Inspection

(1). As-Built Plans, which states:

All applicants are required to submit actual as-built plans for any structures located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be sealed by a registered professional engineer licensed to practice in Tennessee. A final inspection by the City of Lebanon is required before any performance security will be released. The City of Lebanon shall have the discretion to adopt provisions for a partial pro-rata release of the performance security on the completion of various stages of development. In addition, occupation permits shall not be granted until corrections to all BMP's have been made and accepted by the City of Lebanon.

### INSTRUCTIONS

**Prior** to the City of Lebanon Engineering Department issuing a statement that the entire drainage associated with this project meets the City's requirements; the **attached form must be filled out and returned to this office along with the items listed below.** An engineer must also stamp and sign this form. Failure to return this information to this office will delay our approval; therefore, it is recommended that as soon as you anticipate a completion date for your project, you should notify your engineer immediately.

1. An electronic As-Built with the below layers and specifications should be emailed, or delivered to City Engineering Department: Regina Santana: [rsantana@lebanontn.org](mailto:rsantana@lebanontn.org), phone (615) 444-3647 ext. 248.
2. Coordinate data shall be presented in the State of Tennessee Plane system with the North American Datum 1983 (NAD83) and North American Vertical Datum (NAVD) of 1988.
3. Along with the electronic As-Built, a hard copy must be signed and sealed by a licensed professional engineer and submitted for approval before any Letters of Credit can be released.
4. The City requires As-Built to be submitted for all development in the City concerning stormwater management facilities infrastructure including quality and conveyance information. The As-Built should show plainly the **approved and constructed layout**, elevations, design, etc. of the entire site. The following layers must be included for the site:
  - Catch Basins
  - Conduits (swales, ditches, etc.), hydro (ponds, streams, etc.)
  - Culverts (inlets and outfalls),
  - All impervious surfaces: roads, driveways, etc. if they are private.
  - For *residential developments*, As-Built must include **approved and constructed layout** for paved areas and all detention and water quality infrastructures. Show cross sections at critical areas on the road systems and include storm drains in those cross sections. Certain engineered water quality conveyances such as engineered swales have a required slope and cross section to give maximum water quality benefits for the area; these require as-built cross sections to determine if they are built per designed specifications.

**CITY OF LEBANON**  
**Engineering Department**  
**200 North Castle Heights Avenue, Suite 300**  
**Lebanon, Tennessee 37087**

**STORMWATER INFRASTRUCTURE CERTIFICATION**

Date:  
 From:  
 Project Name:  
 Description of Site:

The following information is **REQUIRED** and must be submitted in the format shown:

Designed storage volume		As-Built volume	
Design outlet device type		As-Built device type	
Design outlet device dimensions		As-Built device dimensions	

**\*New calculations for the pond are required if it is undersized or the shape has been changed.**

**List of Structures**

Structures/Swales/Devices, Etc.	As-designed Elevations	As-Built Elevations

**Do all the pipe grades exceed 0.5%? If no, which pipes?**  
**Do all the pipe velocities exceed 2.0 ft/sec? If no, which pipes?**  
**Does the flow for any pipe exceed its capacity? If yes, which pipes?**

**Record Drawing Certification:**

I have included in my As-Built the following layers: **catch basins, conduits (swales, ditches, etc.), hydro (ponds, stream, etc.), culverts (inlets and outlets), all impervious surfaces and necessary elevations.** I hereby certify that the stormwater quality, drainage structures and/or detention/retention basins(s) and all other structures included on the As-Built were constructed as shown on this/these record drawing(s). I further certify that the **intent** and design of the approved project drawings have been met or exceeded with this/these record drawing(s).

\_\_\_\_\_ Date: \_\_\_\_\_  
 (Project Engineer)

**Required:**  
**(Sign, Date and Seal Plan(s))**



# City of Lebanon, Tennessee Enforcement Response Plan (ERP)



October 2012

This outline addresses available types of enforcement responses as well as showing an enforcement action matrix for inspector reference for failure to comply with construction requirements, illicit discharge removal and post-construction requirements. The ERP is included in the City's Stormwater Management Plan (SWMP). This plan is a guide; any of the enforcement responses may be used at the City's discretion. The City may also choose to pursue an enforcement case by skipping intermediate steps.

## I. Description of Each Type of Enforcement Response

### A. Verbal Warnings

1. At a minimum, verbal warnings must specify the nature of the violation and required corrective action.
2. Verbal warning may be given at the discretion of the inspector when it appears the condition can be corrected by the violator within a reasonable time, which time shall be approved by the inspector.

### B. Written Notices

#### 1. Written Warning

- a) A written warning, either by email or letter, must specify the nature of the violation, the required corrective action and a follow-up inspection date.

#### 2. Notice of Violation (NOV)

- a) The NOV must specify the nature of the violation, the required corrective action and a follow-up inspection date.
- b) The NOV should require the party committing the violation to submit an explanation of the violation and a plan for the satisfactory correction and prevention of the violation conditions, including specific required actions within ten (10) days.
- c) The NOV response plan must be submitted to the City's Stormwater Coordinator.
- d) Submitting this NOV response plan does not relieve the party committing the violation of any violations that occurred either before or after the receipt of the NOV. Monetary penalties (civil and administrative penalties) may be assessed for NOVs at the City's discretion.

### C. Citations with Administrative Penalties

#### 1. Consent Orders

- a) The City of Lebanon Public Works Department 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.
- b) A consent order will include specific corrective actions to be taken to correct the noncompliance along with a specified time period to finish the corrective actions.

- c) A consent order has the same force and effect as administrative orders such as the compliance order and the cease and desist order.

## 2. Show Cause Hearing

- a) The City of Lebanon Public Works Department is able to order a person who violates the stormwater ordinance or a permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken.
- b) A notice for this hearing must be served on the person specifying the time and place for the meeting, the proposed enforcement action, the reasons for the proposed enforcement action and a request for the violator to show cause why this proposed enforcement action should not be taken.
- c) The meeting notice must be either served personally or delivered by registered or certified mail (return receipt requested) at least ten (10) days before the hearing.

## 3. Compliance Order

- a) When the City of Lebanon Public Works Department finds that any person has violated or continues to violate the stormwater ordinance, a permit issued under the ordinance or an order issued hereunder, a compliance order may be issued to the violator directing that, following a specific time period, adequate structures or devices be installed and/or procedures implemented and properly operated.
- b) 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.
- c) Monetary penalties (civil and administrative penalties) will be assessed with the compliance order.

## D. Stop Work Orders

### 1. Cease and Desist Order

- a) The MS4 Public Works Department may issue a stop work order or an order to cease and desist for any person who has violated or continues to violate this chapter or any permit or order issued hereunder.
- b) This order requires that the violator must comply with the order and

must take appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation; including halting operations except for cleaning up, terminating the discharge and installing appropriate control measures.

- c) Monetary penalties (civil and administrative penalties) will be assessed with the cease and desist order.

#### E. Suspension, Revocation or Modification of Permit

1. The City may suspend, revoke or modify the permit authorizing the land development project or any other project of the applicant or other responsible person within the City.
2. 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 violation(s) described therein, provided such permit may be reinstated upon such conditions as the City of Lebanon may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation(s).

#### F. Additional Measures

1. Civil Penalties
  - a) The city declares that any person violating the provisions of this chapter may be assessed a civil penalty by the MS4 Public Works Department.
  - b) These penalties will be no less than fifty dollars (\$50.00) and no more than five thousand dollars (\$5,000.00) per day for each day of violation.
  - c) Each day of violation shall constitute a separate violation.
  - d) The MS4 Public Works Department may consider the following in assessing civil penalties for violations:
    - (1) The harm done to the public health or the environment;
    - (2) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
    - (3) The economic benefit gained by the violator;
    - (4) The amount of effort put forth by the violator to remedy this violation;
    - (5) Any unusual or extraordinary enforcement costs incurred by

the municipality;

- (6) The amount of penalty established by ordinance or resolution for specific categories of violations; and
- (7) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

## 2. Recovery of Damages and Costs

In addition to civil penalties, the City may recover:

- a) All damages proximately caused by the violator to the City, which may include reasonable expenses incurred in investigating violations of, and enforcing compliance with, this chapter, or any other actual damages caused by the violation.
- b) 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.

## 3. Performance Security

- a) The City may require an applicant to submit a performance security before a permit is issued or reinstated in order to ensure that the stormwater practices are installed by the permit holder as required by the approved stormwater management plan.
- b) Acceptable performance securities include a Letter of Credit in the City's required format or a cashiers check that will be deposited in the City's account.
- c) The amount for the performance security will be based on the total estimated construction cost, plus 10%, of the structural BMPs approved under the permit plus any reasonable foreseeable additional related costs (e.g., damages, enforcement).
- d) The applicant must provide an itemized construction cost estimate complete with unit prices or an engineer's estimate which shall be subject to acceptance, amendment or rejection by the MS4. Alternatively, the City shall have the right to calculate the construction cost estimate if it so chooses.
- e) The performance security shall contain forfeiture provisions for failure to complete the specified work in the stormwater management plan.
- f) To receive full release of the performance security, both of these steps must be fulfilled:
  - (1) The applicant must submit as-built drawings and written

certification by a registered professional engineer licensed to practice in Tennessee stating that the structural BMP(s) have been installed in substantial compliance with the approved plan and other applicable provisions of the stormwater ordinance.

(2) The City will make a final inspection of the structural BMP(s) to ensure substantial compliance with the approved plan and the provisions of this ordinance.

g) Provisions for a partial pro-rata release of the performance security based on the completion of various development stages can be made at the discretion of the City. The City reserves the right to retain surety until consent warranty or other conditions are satisfied.

6. Legal Action/Other Remedies

a) The City may bring legal action to enjoin the continuing violation of this chapter. Pursuant to the City's Stormwater Ordinance, the City of Lebanon may, through the City Attorney, petition the appropriate court(s) for issuance of preliminary or permanent injunctions to restrain or compel activities by an owner.

## II. NPDES Permit Referrals

A. For a known project site involving a construction activity or an industrial stormwater discharge where the discharge should also be covered by a state NPDES permit, and the known site does not have a state NPDES permit, the City of Lebanon must notify TDEC about this discharge through the local EFO. The following information must be supplied to the local EFO:

1. Construction project or industrial facility location;
2. Name of owner or operator;
3. Estimated construction project size or type of industrial activity (including SIC code if known); and
4. Records of communication with the owner or operator regarding filing requirements.

B. Where the City has used progressive enforcement to achieve compliance with this chapter and in the judgment of the City has not been successful, the City may refer the violation to TDEC through the local EFO. For the purposes of this provision, "progressive enforcement" shall mean two (2) follow-up inspections and two (2) warning letters. The following information must be supplied to the local EFO:

1. Construction project or industrial facility location;

2. Name of owner or operator;
3. Estimated construction project size or type of industrial activity (including SIC code if known); and
4. Records of communication with the owner or operator regarding the violation, including at least two follow-up inspections, two warning letters or notices of violation, and any response from the owner or operator.

### III. Recordkeeping & Tracking

- A. All non-compliance instances must be tracked either electronically or using paper files. This tracking must include all records and documents related to stormwater ordinance violations at the site and should be stored in the enforcement case file.
- B. The minimum required documentation must include the following items:
  1. Name of owner/operator;
  2. Location of construction project or industrial facility;
  3. Description of violation;
  4. Required schedule for returning to compliance;
  5. Description of enforcement responses used, including escalated responses if repeat violations occur or violations are not resolved in a timely manner;
  6. Accompanying documentation of enforcement response (e.g., notices of noncompliance, notices of violation, etc.);
  7. Any referrals to different departments or agencies; and
  8. Date violation was resolved.

- C. The City must use the non-compliance records and tracking to identify any chronic violators, and use this information to work toward reducing the rate of noncompliance relapse.
  - 1. This will include tracking violations, applying incentives and/or disincentives, and increasing the inspection frequency of the operator's sites.
  - 2. If the operator fails to take corrective actions, the City must pursue progressive enforcement and, if need be, perform the necessary work and assess against the owner the costs incurred for repairs.
- D. For BMPs on public property or within public rights-of-way, the City must document that appropriate maintenance and/or repairs have been completed (e.g., using photos, maintenance logs, contractor invoices).
- E. The City must keep any closed files related to enforcement for a minimum of three (3) years after the file is closed consistent with the MS4 General Permit conditions. However, file retention time may be longer if required by law.
- F. In the case of Illicit Discharge complaints, the City shall investigate and respond within 7 days from detection, and eliminated as soon as possible.

#### IV. Enforcement Action Matrices

##### A. Noncompliance with Construction Requirements

- 1. See Table 1 for the enforcement action matrix for noncompliance with construction requirements. In general, the severity of the enforcement measure increases moving down the matrix.
- 2. For parties who fail to obtain a land disturbance permit before starting work, the initial enforcement action may be more stringent than for a project that has an approved plan but has failed to comply with the approved plan.
  - a) The City has the ability to stop project work for non-permittees. Stopping work generally includes all work except what is needed to address stormwater and/or safety until the project has an approved stormwater plan.
  - b) Non-permittees may be required to perform corrective actions

as advised by the City and to develop the required erosion control and/or stormwater plan submittals to submit to the City for review and approval.

- c) The City will not issue a land disturbance permit where work began prior to receiving approval from the City. However, the City may issue another approval to the non-permittee following the plan review and approval process similar to what would have happened if the project plans had been submitted for advance review and permit approval before work began.
- d) Once the corrective actions have been successfully completed and the submitted stormwater plan has been approved by the City, the City will issue the violator a written notice that the situation has been resolved.
- e) If the corrective actions or the submitted plan cannot be approved, the City should also send a written notice to the violator describing what was deficient and what step(s) are needed to resolve the situation.

**Table 1. Enforcement Action Matrix for Noncompliance with Construction Requirements.**

Type of Violation	Failure to Obtain Land Disturbance Permit Prior to Starting Work	Minor Violations (Failure to Install, Maintain or Upgrade Measures on Erosion and Sediment Control Plan)	Minor Violations (Failure to Install, Maintain or Upgrade Measures on Erosion and Sediment Control Plan for a Priority Area)	Major Violation (Failure to Install, Maintain or Upgrade Measures on Erosion and Sediment Control Plan that Resulted in a Sediment Release from the Project Site)	Repeat Violation by a Party (Same Site)	Repeat Violation by a Party (Different Site than initial Noncompliance Site)
<b>Enforcement Measures For Use (Increasing Severity Moving Down the Chart)</b>	Cease and Desist Order or Consent Order	Verbal and/or Written Warning	Verbal and/or Written Warning	NOV and/or Verbal or Written Warning	NOV and/or Verbal or Written Warning	NOV and/or Verbal or Written Warning
		NOV	NOV	Compliance Order or Consent Order	Compliance Order or Consent Order	Compliance Order or Consent Order
	Legal Action	Compliance Order or Consent Order	Compliance Order or Consent Order	Cease and Desist Order or Consent Order	Cease and Desist Order or Consent Order	Cease and Desist Order or Consent Order
		Cease and Desist Order or Consent Order	Cease and Desist Order or Consent Order	Suspension, Revocation or Modification of Permit	Suspension, Revocation or Modification of Permit	Suspension, Revocation or Modification of Permit
		Suspension, Revocation or Modification of Permit	Suspension, Revocation or Modification of Permit	Legal Action	Legal Action	Legal Action
		Legal Action	Legal Action			

This plan is a guide; any of the enforcement responses may be used at the City’s discretion and the City may choose to escalate an enforcement case by skipping intermediate steps. Penalties (Civil, Recovery of Damages and Costs, Etc.) may be assessed as described in the stormwater ordinance and as allowed by law at the City’s discretion.

**B. Failure to Remove Illicit Discharges**

1. See Table 2 for the enforcement action matrix for failure to remove illicit discharges.
2. The action matrix was set up to provide varying suggested degrees of response to noncompliance documented by the City.
3. In general, the severity of the enforcement measure increases moving down the matrix.

**Table 2. Enforcement Action Matrix for Failure to Remove Illicit Discharges.**

<b>Type of Violation</b>	<b>First Failure to Remove illicit Discharge</b>	<b>Repeat Violation by a Party (Same Site)</b>	<b>Repeat Violation by a Party (Different Site than initial Noncompliance Site)</b>
<b>Enforcement Measures For Use (Increasing Severity Moving Down the Chart)</b>	Verbal and/or Written Warning	NOV and Verbal and/or Written Warning Compliance Order or Consent Order	NOV and Verbal Warning and/or Written Warning
	NOV	Cease and Desist Order or Consent Order	Compliance Order or Consent Order
	Compliance Order or Consent Order	Legal Action	Cease and Desist Order or Consent Order
	Cease and Desist Order or Consent Order		Legal Action
	Legal Action		

This plan is a guide; any of the enforcement responses may be used at the City’s discretion and the City may choose to escalate an enforcement case by skipping intermediate steps. Penalties (Civil, Recovery of Damages and Costs, Etc.) may be assessed as described in the stormwater ordinance and as allowed by law at the City’s discretion.

C. Noncompliance with Post-Construction Requirements

1. See Table 3 for the enforcement action matrix for noncompliance with post-construction requirements.
2. The action matrix was set up to provide varying suggested degrees of response to noncompliance documented by the City.
3. In general, the severity of the enforcement measure increases moving down the matrix.

**Table 3. Enforcement Action Matrix for Noncompliance with Post-Construction Requirements**

Type of Violation	First Failure to Comply with Post-Construction Requirements	Repeat Violation by a Party (Same Site)	Repeat Violation by a Party (Different Site than initial Noncompliance Site)
<b>Enforcement Measures For Use (Increasing Severity Moving Down the Chart)</b>	Verbal and/or Written Warning	NOV and Verbal and/or Written Warning	NOV and Verbal Warning and/or Written Warning
		Compliance Order or Consent Order	
	NOV	Cease and Desist Order or Consent Order	Compliance Order or Consent Order
	Compliance Order or Consent Order	Legal Action	Cease and Desist Order or Consent Order
	Cease and Desist Order or Consent Order		Legal Action
Legal Action	Legal Action		

This plan is a guide; any of the enforcement responses may be used at the City’s discretion and the City may choose to escalate an enforcement case by skipping intermediate steps. Penalties (Civil, Recovery of Damages and Costs, Etc.) may be assessed as described in the stormwater ordinance and as allowed by law at the City’s discretion.

## **INSPECTION AND MAINTENANCE AGREEMENT FOR PRIVATE STORMWATER MANAGEMENT FACILITIES**

The term “**STORMWATER MANAGEMENT FACILITIES**” may refer to water quality and/or water quantity facilities (i.e. detention basins, retention basins, swales, pipes, oil/water separators, sand filtering devices, etc.) which are located **OUTSIDE** the public road right-of-way (ROW).

Property Identification (“Property”): \_\_\_\_\_ City Use: \_\_\_\_\_

Map: \_\_\_\_\_ Parcel No. \_\_\_\_\_ Land Disturbance Permit No. \_\_\_\_\_  
Record Book: \_\_\_\_\_ Page No. \_\_\_\_\_

Project Name: \_\_\_\_\_

Project Address: \_\_\_\_\_

Owner(s): \_\_\_\_\_

Owner Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

### **SEE LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT A.**

This Inspection and Maintenance Agreement (“Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, of the year, 20\_\_, by and between \_\_\_\_\_ (hereinafter called the “Owner”, whether one or more) and The City of Lebanon, (hereinafter called “City”).

WITNESSETH, that

WHEREAS, the City is required by federal and state surface water quality regulations and its National Pollutant Discharge Elimination System (NPDES) permit to prevent surface water quality degradation from development or redevelopment activities within its jurisdiction, and the City has adopted surface water quality regulations as required and such regulations are contained in the Stormwater Management chapter of the City Code; and

WHEREAS, the Owner owns the Property identified above and has or will construct certain stormwater management facilities on the Property, and has developed a Stormwater Maintenance Plan (SWMP No. \_\_\_\_\_), as may be amended from time to time (the “Plan”) for the maintenance of those facilities, which the City has reviewed and approved, and a copy of which will be maintained at the City of Lebanon. A drawing showing the general area of the facilities covered by the Plan is attached to this Agreement for ease of identification.

NOW, THEREFORE, in consideration of the benefits received by the Owner as a result of the approval by the City of the Plan, the Owner does hereby covenant and agree with the City as follows:

1. The Owner shall provide adequate long term maintenance and continuation of the stormwater control measures described in the Plan, to ensure that all stormwater facilities are and remain in property working condition. The Owner shall perform inspection and preventative maintenance activities in accord with the Plan.

2. The Owner shall maintain a copy of the Plan on site, together with a record of inspections and maintenance actions required by the Plan. The Owner shall document the times of inspections, remedial actions taken to repair, modify or reconstruct the system, the state of control measures and notification of any planned change in responsibility for the system. The City may require that the Owner's records be submitted to the City.
3. If it is later determined that the City's NPDES permit clearly directs Owners or the City to manage stormwater treatment systems differently than specified in the Plan, the direction of the NPDES permit shall override the provisions of the Plan.
4. The Owner hereby grants permission to The City, its authorized agents, and employees the right of ingress, egress and access to enter the Property at reasonable times and in a reasonable manner for the purpose of inspecting, operating, installing, constructing, reconstructing, maintaining or repairing the facilities. The Owner hereby grants to the City the right to install and maintain equipment to monitor or test the performance of the stormwater control system for quality and quantity upon reasonable notice to the Owner. Whenever possible, The City shall notify the Land Owner prior to entering the property and shall use its best efforts not to disturb the Land Owner's use and enjoyment of the Property while conducting said inspections.
5. In the event, the City determines that the stormwater facilities are not being maintained in good working order and gives written notice to the Owner to repair, replace, reconstruct or maintain said facilities within a reasonable time (maximum time specified will be 30 days), and the Owner fails to comply with the City's notice within the time specified, Owner authorizes the City or its agents to enter upon the Property to repair, reconstruct, replace or perform maintenance on said facilities at the Owner's expense. It is expressly understood and agreed that the City is under no obligation to maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on the City.
6. In the event, the City, pursuant to this Agreement, performs work of any nature, or expends any funds in the performance of said work for labor, use equipment, supplies, materials, and the like, the Owner shall reimburse the City upon demand, within forty-five (45) days of receipt of written request for reimbursement for all costs incurred by the City. If the City has not received said payment from the Owner by the end of said forty-five (45) day period, the City may use any other remedies available by law to collect such balances plus reasonable expenses of collection, court costs, and attorney fees.
7. It is the intent of this Agreement to assure the City of proper maintenance of onsite stormwater facilities by the Owner; provided, however, that this Agreement shall not be deemed to create or affect any additional liability of any party for damage alleged to result from or be caused by stormwater management.
8. The Owner and the Owner's heirs, executors, administrators, assigns, and any other successors in interest, shall indemnify and hold the City and its agents and employees harmless for, and defend against at its own expense, any and all damages, accidents, casualties, occurrence, claims, or attorney's fees which might arise or be asserted , in whole or in part, against the City from the construction, presence, existence, or maintenance of the storm water



Witness my hand and official seal at office, this \_\_\_\_\_ day of \_\_\_\_\_, of the year \_\_\_\_\_,

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**Accepted By:**

\_\_\_\_\_  
For the City of Lebanon

**STATE OF TENNESSEE**     )

)

**COUNTY OF WILSON**     )

Personally appeared before me, the undersigned Notary Public of the state and county mentioned, \_\_\_\_\_, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and executed this Agreement (Inspection and Maintenance Agreement for Private Stormwater Management Facilities) on behalf of the City of Lebanon for the purposes contained herein.

Witness my hand and official seal at office, this \_\_\_\_\_ day of \_\_\_\_\_, of the year \_\_\_\_\_,

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_