

**TITLE 14**

**ZONING AND LAND USE CONTROL**

**CHAPTER**

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. MOBILE HOME PARK REGULATIONS.
4. LANDSCAPE ORDINANCE.
5. SIGN ORDINANCE.
6. STORMWATER ORDINANCE.
7. [DELETED.]

**CHAPTER 1**

**MUNICIPAL PLANNING COMMISSION**

**SECTION**

- 14-101. Creation and membership.  
14-102. Organization, powers, duties, etc.

**14-101. Creation and membership.** Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of five (5) members; two (2) of these shall be the mayor and another member of the board of mayor and aldermen selected by the board of mayor and aldermen; the other three (3) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the three (3) members appointed by the mayor shall be for three (3) years each. The three (3) members first appointed shall be appointed for terms of one (1), two (2), and three (3) years respectively so that the term of one (1) member expires each year. The terms of the mayor and the member selected by the board of mayor and aldermen shall run concurrently their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. (1980 Code, § 11-101)

**14-102. Organization, powers, duties, etc.** The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of Tennessee Code Annotated, title 13. (1980 Code, § 11-102)

**CHAPTER 2**

**ZONING ORDINANCE**<sup>1</sup>

**SECTION**

14-201. Land use to be governed by zoning ordinance.

**14-201. Land use to be governed by zoning ordinance.** Land use within the Town of Bluff City shall be governed by Ordinance #95-012, titled "Zoning Ordinance, Bluff City, Tennessee," and any amendments thereto.<sup>2</sup>

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<sup>1</sup>The Floodplain Zoning Ordinance #2006-002, is available in the office of the city recorder.

<sup>2</sup>Ordinance #95-012, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

## CHAPTER 3

### MOBILE HOME PARK REGULATIONS

#### SECTION

- 14-301. Purpose.
- 14-302. Applicability.
- 14-303. Definitions.
- 14-304. Standards.
- 14-305. Density and dimension requirements for mobile home parks.
- 14-306. Density and dimension requirements for mobile home spaces.
- 14-307. Sign specifications.
- 14-308. Road specifications.
- 14-309. Parking space specifications.
- 14-310. Utility specifications.
- 14-311. Topographic and drainage specifications.
- 14-312. Buffering and open space specifications.
- 14-313. Application process for a mobile home park.

**14-301. Purpose.** Because of their unusual characteristics, mobile home parks pose special problems in the application of land use control techniques and require special consideration as to their proper location and character in relation to adjacent uses and to the development of the community, and as to the circumstances and conditions under which they may be permitted. The standards provided in this chapter represent an attempt to provide adequate protection for, and consideration of, both the community and the mobile home dweller. (Ord. #97-015, Jan. 1998)

**14-302. Applicability.** The provision of this chapter shall apply to the following:

(1) All new mobile home parks located within the Town of Bluff City. In any district in which mobile home parks are permitted, the following regulations shall apply:

(2) Any additions made to existing mobile home parks located within the Town of Bluff City which extend the number of dwelling units or the area occupied by dwelling units beyond that originally approved by the planning commission.

(3) Mobile home subdivisions located within the Town of Bluff City shall comply with all applicable provisions of the Bluff City Subdivision Regulations, as amended. (Ord. #97-015, Jan. 1998)

**14-303. Definitions.** The following definition shall apply in the interpretation and application of this chapter for the purpose of this chapter, certain words or terms used herein shall be defined as follows: words used in the

present tense include the future tense; words used in the singular number include the plural; and words used in the plural include the singular. The word "shall" is always mandatory, not directory. And the word "may" is permissive.

"Access road." A road is entirely located within a mobile home park and which is designed to provide mobile home park residents with an opportunity for vehicular movement both within the park and to the nearest public right-of-way.

"Alley." A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is one some other street.

"Buffer strip." A solid wall, fence, evergreen hedge, or similar screening device not less than seven (7) feet high.

"Building inspector." The officer, or his duly authorized representative, charged with the administration and enforcement of this chapter.

(1) "Mobile home mobile." A detached single family dwelling unit with all of the following characteristics:

(a) Designed for long-term occupancy and containing sleeping accommodation, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.

(b) Designed to be transported after fabrication on its own wheels, or on flatbed or other trailers or detachable wheels. Manufactured housing as defined by state legislation shall not be considered mobile homes.

(c) Arriving at the site where it is to be occupied as a dwelling complete, including major appliances and furniture, and read for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connection to utilities, and the like.

(2) "Mobile home park" shall mean any plat of ground under single ownership containing a minimum of two (2) acres upon which two (2) or more mobile homes are located or are intended to be located. A mobile home park, however, does not include sites where unoccupied mobile homes are on display for sale.

(3) "Health officer" shall mean the health officer of the Town of Bluff City, Tennessee or his authorized representative.

(4) "Building inspector" shall mean the building inspector of the Town of Bluff City, Tennessee, or his authorized representative.

(5) "Plumbing inspector" shall mean the plumbing inspector of the Town of Bluff City, Tennessee, or his authorized representative.

(6) "Electrical inspector" shall mean the electrical inspector of the Town of Bluff City, Tennessee, or his authorized representative.

"Mobile home space." The lot area allocated for an individual mobile home. This area includes the land under which the actual mobile home is

located and the required front, side and rear yards for the associated mobile home.

"Mobile home subdivision." A subdivision designed and/or intended for the sale of lots for siting mobile homes. (Ord. #97-015, Jan. 1998)

**14-304. Standards.** (1) Minimum standards. The following minimum standards shall apply to all mobile home parks.

(a) The site shall be located on a well drained and flood free site with proper drainage.

(2) General standards. (a) Mobile homes shall not be used for commercial, industrial, or other nonresidential uses within the mobile home park, except that one (1) mobile home in the park may be used to house a management office or similar facility noted below in subsection (b).

(b) Each mobile home park shall be provided with a management office and such service buildings as are necessary to provide facilities for mail distribution, storage space for supplies, maintenance materials and equipment, and laundry facilities equipped with washing machines and dryers. All service buildings shall be not more than four hundred (400) feet from the spaces which they solely serve and shall be of permanent construction and maintained in a clean and sanitary condition.

(c) In each mobile home park, the duly authorized attendant or caretaker shall be charged at all times to keep the mobile home park, its facilities and equipment in a clean, orderly, safe and sanitary condition.

(d) Cabanas, travel trailers and other similar enclosed structures are allowed provided they are kept in areas which are separate from mobile home spaces. These units shall be limited to a period of two weeks not to exceed four times a year.

(e) Each mobile home shall have a non-combustible, corrosive resistant skirt extending from the bottom of the mobile home to the mobile home space pad foundation. Said skirt shall be provided with an access way with a door measuring at least eighteen (18) inches by twenty-four (24) inches; and further, said skirt shall be constructed so as to prohibit insect and rodent infestation. The site shall not be exposed to objectionable smoke, noise, insect, or rodent harborage or other adverse influences. (Ord. #97-015, Jan. 1998)

**14-305. Density and dimension requirements for mobile home parks.** (1) Mobile home parks shall be subject to the density provisions of the zoning district in which they are located. The minimum area for a mobile home park is two (2) acres.

(2) Each mobile home park shall meet the following minimum setback requirements, irrespective of the zoning district in which the park is proposed:

Front yard setback	30 feet
Side yard setback	20 feet
Rear yard setback	20 feet

In instances where a side or rear yard abuts on a public right-of-way, the minimum setback shall be thirty (30) feet.

(3) No building or structure erected or stationed in a mobile home park shall have a height greater than two (2) stories or thirty-five (35) feet, whichever is less, unless such building or structure is exempted from height limitations, as provided in the Town of Bluff City Zoning Ordinance. (Ord. #97-015, Jan. 1998)

**14-306. Density and dimension requirements for mobile home spaces.** (1) The minimum lot area per mobile home space shall be five thousand (5,000) square feet. For double wide mobile homes, the minimum lot area shall be seven thousand five hundred (7,500) square feet. This lot area, in addition to including the space on which a mobile home is located, shall also include driveways, off street parking spaces (not including those for travel trailers and similar structures), accessory building space, and required front, side and rear yards.

(2) Each mobile home space shall be at least forty (40) feet wide and such space shall be clearly marked by permanent markers.

(3) There shall be a front yard setback of at least ten (10) feet from all access roads within the mobile home park.

(4) Mobile homes shall be placed on each space so that there shall be at least a twenty (20) foot clearance between mobile homes, provided however, with respect to mobile homes parked end to end, clearance shall be not less than sixteen (16) feet. No mobile home shall be located closer than twenty (20) feet from any building within the mobile home park. (Ord. #97-015, Jan. 1998)

**14-307. Sign specifications.** (1) Mobile home parks shall be permitted to display, on each public right-of-way frontage, one (1) free standing sign not to exceed twelve (12) feet in height and thirty (30) square feet in area to identify the name, address, and phone number of the park, provided such sign(s) are in compliance with all applicable provisions of the Town of Bluff City Sign Ordinance.<sup>1</sup>

(2) Each occupant of a mobile home space shall be permitted one (1) wall sign, provided such signs is flush with the mobile home, does not exceed four (4) square feet in area and meets all other applicable requirements of the Town of Bluff City Sign Ordinance.<sup>1</sup> (Ord. #97-015, Jan. 1998)

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<sup>1</sup>Municipal code reference  
Sign ordinance: title 14, ch. 5.

**14-308. Road specifications.** (1) All roads within a mobile home park shall be private and shall not be accepted as public roads, unless such roads first meet all applicable requirements noted in the Town of Bluff City Subdivision Regulations and are formally offered to and accepted by the Town of Bluff City.

(2) Each mobile home park site shall be located with at least forty (40) feet of frontage on a public right-of-way. Each mobile home space shall contain a driveway which intersects an access road. Each access road shall provide unobstructed vehicular access to a public right-of-way.

(3) Sole vehicular access shall not be through an alley.

(4) Private access roads and driveways in a mobile home park shall be paved to a width of not less than twenty (20) feet and shall consist of a five (5) inch compacted crushed stone base with a two (2) inch compacted asphaltic concrete plant mix surface.

(5) Dead end access roads shall contain a paved cul-de-sac or other permanent turn around. Such turn around shall be constructed of at least a five (5) inch crushed rock base and a two (2) inch compacted asphaltic concrete plant mix surface. Moreover, such permanent turn around space shall have a minimum diameter, as measured from the widest point, of at least seventy (70) feet, unless a higher standard is required for emergency vehicle access. (Ord. #97-015, Jan. 1998)

**14-309. Parking space specifications.** (1) There shall be at least one (1) paved, off street parking space for each mobile home space, which shall be on the same mobile home space as the mobile home served, and may be located in the rear or side yard of the associated mobile home space.

(2) Additional parking space may be required in separate areas for travel trailers, tractor trailers, boats, and other accessory vehicles. Approval for such space shall be made by the planning commission during the mobile home site plan review process.

(3) Any parking spaces separate from individual mobile home spaces may be required to include spaces for the physically handicapped. (Ord. #97-015, Jan. 1998)

**14-310. Utility specifications.** (1) Sewer, water (including fire hydrants), gas, electricity, storm sewer, telephone, cable and other utilities shall be installed at the expense of the developer or owner. Such utilities shall also be installed prior to the initiation of any road surfacing activities.

(2) Utility easements no less than eight (8) feet wide shall be required along each side of all private access roads for the extension of existing or planned utilities. Vegetated drainage easements of no less than fifteen (15) feet shall be provided on each side of the top bank of a stream or other permanent water body existing on the mobile home park site. Such area may be considered as part of the open space required section 14-312.

(3) Fire hydrants shall be required and shall be located no more than one thousand (1,000) feet apart and within five hundred (500) feet of any structure.

(4) All access roads and walkways shall be lighted with security lights spaced no further than one hundred fifty (150) feet from each other. (Ord. #97-015, Jan. 1998)

**14-311. Topographic and drainage specifications.** (1) The proposed park shall be located on a well drained and flood free site as determined by the erosion control plans (drainage plans) prepared for the proposed park. In all cases water runoff and erosion and sediment control plans shall be prepared by a licensed engineer who specializes in hydrology. At a minimum, such plans shall include calculation and narrative which indicate specifically how surface water runoff and erosion and sedimentation will be controlled so that off site properties and water systems will be unaffected by the proposed development. Drawings, including cross sections, shall be provided which graphically demonstrate existing and proposed water flows and which include the location, dimensions and materials associated with pipes, storm drains, detention and dissipation basins, swells, and other control measures and structures. The location of straw bales, rip rap, silt fences and other erosion and sediment control measures shall also be included. And, the "drainage plan" shall include a letter which states that the hydrologist certifies that, by adhering to the design provided in the plan, post development surface water runoff will not exceed predevelopment surface water runoff for the 10 year 24 hour storm event. In cases where a mobile home park is to be completed in phases, water runoff and erosion control measures shall be established and completed for each phase prior to initiating a new phase. (Ord. #97-015, Jan. 1998)

**14-312. Buffering and open space specifications.** (1) There shall be buffer strips as defined in § 14-403 along side and rear lot lines of the mobile home park. The buffer strips shall be arranged so that the park is entirely enclosed, with the exception of driveways and space required for front yards.

(2) Each mobile home park shall provide a common area for playgrounds and leisure time pursuits totaling a minimum of five hundred (500) square feet for each mobile home space, exclusive of roadways, required yards for mobile home spaces and parking spaces. Buffer strips, as required in § 14-312(1) may be counted toward common area requirements.

(3) Any part of the park area not used for buildings or other structures, parking, or access ways shall be landscaped with grass trees shrubs, and pedestrian walks. Moreover, such landscaping shall be maintained to an extent which meets all town codes.

(4) Walkways not less than two (2) feet wide shall be provided from mobile home spaces to service buildings. (Ord. #97-015, Jan. 1998)



**14-313. Application process for a mobile home park.**

(1) Preliminary general plan mobile home park development plat. As an initial phase of the application process for a mobile home park, the Town of Bluff City Planning Commission shall review a preliminary mobile home park development plan. The plan shall be submitted to the town planner no later than the last business day of the month preceding the meeting in which the planning commission review is requested. In addition, a copy of the plan shall be submitted to all representatives who may provide utilities to the park. The submission to utility representatives shall take place at least fifteen (15) calendar days prior to the planning commission meeting. At a minimum, the preliminary mobile home park development plan shall include the following:

(a) General requirements. (i) A vicinity map which shows streets and other general development of the surrounding area.

(ii) An indication of existing land uses associated with property adjacent to the proposed park, including adjacent zoning.

(iii) An indication of the total acreage associated with the mobile home park.

(iv) The location of the mobile home park with labeled dimensions which show the property in relation to required setback lines. A certificate of accuracy signed by the surveyor shall also be submitted for the survey of the property boundary and any internal subdivisions. In all cases property to be subdivided shall adhere to the Town of Bluff City Subdivision Regulations.

(v) The location and dimensions of all uses and improvements constructed or to be constructed within the mobile home park.

(vi) The location, dimensions, and areas of all proposed or existing lots or mobile home park spaces.

(vii) The distance between proposed mobile homes and their mobile home space boundaries.

(viii) An indication of the date, the approximate north point, and a graphic scale no less than one inch (1) equals one hundred (100) feet.

(b) Name requirements. (i) The name of the proposed mobile home park.

(ii) The name and address, including telephone number, of the legal owner or agent of property.

(iii) The name and address including telephone number of the professional person(s) responsible for the design of the proposed park.

(iv) The name and address, including telephone number of the certified engineers responsible for the drainage and erosion control plan.

(c) Legal information. (i) Citation of the last instrument conveying title to the property proposed for the mobile home park.

(ii) Citation of any existing legal rights-of-way or easements affecting the property.

(iii) Location of property, in terms of tax map and parcel reference.

(iv) A plan for establishing easements for utilities, drainage systems, and pedestrian networks.

(v) The location and dimensions of existing easements and rights-of-way.

(d) Natural features and drainage information. (i) Approximate topography including, at a minimum, spot elevations.

(ii) A drainage plan as discussion in subsection 14-311(1) of this chapter.

(iii) If the proposed park is to involve construction activities, such as clearing, grading and excavation, which will result in the disturbance of more than five (5) acres, the Tennessee Department of Environment and Conservation requires that a notice of intent (NOI) form be completed and filed with the state. A completed copy of this form shall also be required for submission as part of the preliminary mobile home park development plan.

(e) Infrastructure and parking space information. (i) The location, width, grade and name of all existing and proposed streets within or immediately adjacent to the subject property.

(ii) A cross section of proposed access roads. Such cross section shall indicate the depth and materials associated with both the base and the surface layer.

(iii) The location and dimensions of existing and proposed points of ingress and egress both within and adjacent to the subject property.

(iv) The location, dimensions, and lighting systems associated with proposed off street parking facilities. Handicapped parking spaces shall also be indicated on the plan.

(v) The location, dimensions, and lighting system associated with any existing or proposed pedestrian systems related to the park.

(vi) The location and sizes of existing and proposed sewers, water mains, culverts, and other underground structures within the tract.

(vii) Preliminary proposals for connection with existing water supply and sanitary sewer systems.

(viii) The written comments of any applicable utility representatives responsible for reviewing the preliminary plan. These comments shall be submitted to the town planner by the

developer no less than seven (7) calendar days prior to the planning commissions upcoming meeting.

(f) Open space and landscaping information. (i) The location, dimensions, and area of all portions of the park to be set aside for playground, open space or similar uses.

(ii) A preliminary landscape plan, prepared by a landscape architect.

(2) Final mobile home park development plan. After a preliminary mobile home park development plan has been reviewed by the planning commission and obtained preliminary approval subject to certain specific revisions, a revised final mobile home development plan may be submitted for review by the planning commission. Where no subdivision of land is involved, final approval of the mobile home park will be conditioned on whether the proposed park meets all applicable provision of this chapter. Moreover, final approval, necessary for the issuance of a building permit, shall be withheld until the following specific requirements have been met:

(a) All surface water runoff and erosion and sediment control measures have been fully installed to the specifications provided in the drainage plan.

(b) Or, if certain surface water runoff control and erosion and sediment control measures are to be installed while building construction is occurring, a water runoff and erosion and sediment control bond shall be posed at the time of the application for final approval in an amount estimated by the planning commission as sufficient to secure to the Town of Bluff City the satisfactory installation and maintenance of the surface water runoff and erosion control measures.

(c) A bond is posted for landscape completion, maintenance and replacement. (Ord. #97-015, Jan. 1998)

## CHAPTER 4

### LANDSCAPE ORDINANCE

#### SECTION

- 14-401. Short title.
- 14-402. Intent and purpose.
- 14-403. Definitions and interpretation.
- 14-404. The landscape plan.
- 14-405. Protection of existing plantings.
- 14-406. Standards for accepting existing plantings.
- 14-407. Incentives for preserving specimen trees and existing plantings.
- 14-408. General landscape design standards.
- 14-409. Prohibited plantings.
- 14-410. Buffering.
- 14-411. Parking lot landscaping.
- 14-412. Frontage landscape areas.
- 14-413. Completion bond.
- 14-414. Maintenance/replacement bond.
- 14-415. Continued maintenance requirements.
- 14-416. Application procedures--new developments.
- 14-417. Application procedures--expansions of and/or alterations to existing developments.
- 14-418. Alternative methods of compliance.
- 14-419. Conflict.

**14-401. Short title.** This ordinance shall be known as the "Landscape Ordinance for the Town of Bluff City." (Ord. #2000-002, March 2000)

**14-402. Intent and purpose.** The general intent and purpose of this chapter is to regulate the planting, protection, and maintenance of trees, shrubs, and other landscaping materials in order to:

Enhance the town's environmental and visual character for its citizens' use and enjoyment.

Preserve and/or stabilize the area's ecological balance.

Mitigate the effects of air, water, and noise pollution.

Safeguard property values by promotion high quality development.

Help ensure land use compatibility and lessen the impact of high intensity uses on the community. (Ord. #2000-002, March 2000)

**14-403. Definitions and interpretation.** "Berm." A mound of soil or man-made raised area used to obstruct views, decrease noise, and/or otherwise act as a buffer between incompatible land uses.

"Buffer." An area within a property or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences, walls, and/or berms, designed to limit continuously the view of and sound from the site to adjacent sites or properties.

"Caliper." The diameter of a tree trunk measured in inches, six (6) inches above ground level for trees up to four (4) inches in diameter and twelve (12) inches above ground level for trees over four (4) inches in diameter. Caliper is a common means of measuring trunk diameter on young trees.

"Canopy." The above ground parts of a tree consisting of branches, stems, buds, and leaves.

"Certificate of occupancy." A document issued by the building inspector which permits the occupancy or use of a building and which certifies that the structure or use has been constructed, arranged, and will be used in compliance with all applicable codes.

"Curb." A stone, concrete, or other improved boundary usually marking the edge of the roadway or paved area.

"DBH." Diameter breast height. The diameter of a tree measured four and one-half (4 ½) feet above ground level. DBH is a common means of measuring the diameter of large trees.

"Deciduous." Plants that drop their foliage annually before becoming dormant.

"Developer." The legal or beneficial owner or owners of a lot or of any land included in a proposed development. Also, the holder of an option or contract to purchase, or any other person having enforceable proprietary interest in such land.

"Development." Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, dredging, drilling operations, excavation, filling, grading, paving, or the removal of healthy trees over six (6) inches dbh.

"Drip line." A vertical line extending from the outer edge of the canopy of a tree to the ground.

"Frontage landscaped area." A landscaped area located at the perimeter of the lot along all abutting public streets.

"Evergreen." A plant with foliage that remains green year-round.

"Hedge." A landscape barrier consisting of a continuous, dense planting of shrubs.

"Impervious surface." A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.

"Incompatibility of land uses." An issue arising from the proximity or direct association of contradictory, incongruous, or discordant land uses or activities, including the impacts of noise, vibration, smoke, odors, toxic matter, radiation and similar environmental conditions.

"Interior planting island." An island located within the interior of a parking lot.

"Island." A raised area, usually curbed, placed to protect landscaping.

"Lot." A designated parcel, tract, or area of land established by a plat or otherwise as permitted by law and to be used, developed, or built upon as a unit.

"Maintenance guarantee." Any security which may be required and accepted by the Bluff City Planning commission to ensure that necessary improvements will function as required for a specific period of time.

"Mulch." A layer of wood chips, dry leaves, straw, hay, plastic, or other materials placed on the surface of the soil around plants to retain moisture, prevent weeds from growing, hold the soil in place, or aid plant growth.

"Nursery." Land or greenhouses used to raise flowers, shrubs, and plants for sale.

"Off-street parking." A parking space provided in a parking lot, parking structure, or private driveway.

"Ornamental tree." A deciduous tree planted primarily for its ornamental value or for screening purposes; tends to be smaller at maturity than a shade tree.

"Overhang." The portion of a vehicle extending beyond the wheel stops or curb.

"Performance guarantee." Any security that may be accepted by the Bluff City Planning Commission as a guarantee that the improvements required as part of an application for development are satisfactorily completed.

"Protective screening." A structure or planting consisting of fencing, berms, and/or evergreen trees or shrubs providing a continuous view obstruction within a site or property.

"Setback." The distance between the building and any lot line.

"Shade tree." A tree, usually deciduous, planted primarily for overhead canopy.

"Shrub." A self-supporting woody perennial plant of low to medium height characterized by multiple stems and branches continuous from the base, usually not more than ten (10) feet in height at its maturity.

"Sight distance triangle." A portion of land formed by the intersection of two street right-of-way lines and points along each right-of-way thirty (30) feet from the intersection. Within this triangle nothing shall be erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection. In general, this would mean that a clear view shall be provided between the heights of three (3) and fifteen (15) feet within the sight distance triangle.

"Specimen tree." A particularly impressive or unusual example of a species due to its size, shade, age, or any other trait that epitomizes the character of the species.

"Street, public." A public right-of-way set aside for public travel which (a) has been accepted for maintenance by the Town of Bluff City; (b) has been

dedicated to and accepted by the Town of Bluff City for public travel by the recording or a street plat or a plat of a subdivision which has been approved by the planning commission.

"Subgrade." The natural ground laying beneath a road.

"Topsoil." The original layer of soil material to a depth of six inches which is usually darker and richer than the subsoil.

"Vision clearance." A condition which is achieved when nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving an intersection. (Ord. #2000-002, March 2000)

**14-404. The landscape plan.** A generalized landscape plan shall be submitted as part of the site plan review process noted in Section 414 of the Town of Bluff City Zoning Ordinance. At a minimum, the landscape plan shall indicate:

The size, location, number and type of species involved in proposed frontage landscaped areas, landscape islands within parking lots, and screening and buffers.

The distance of plantings to be used for landscaping from intersections (include and highlight the location of all sight distance triangles), utility lines and other potential points of conflict. Each developer shall be responsible for coordinating the location of plantings with the existing and/or proposed location of above and below ground utilities.

The number of parking spaces and/or the square footage of area designated for parking.

The zoning associated with both the proposed development and surrounding properties.

The types of activities conducted on adjacent properties.

The general location of existing trees, shrubs, and ground covers.

Where existing plantings are to be retained and how these plantings will be protected during the construction process. Drawings shall delineate the drip line of trees desired for preservation.

Location and description of other landscape improvements, such as earth berms, walls, fences, and screens.

Planting and installation details as necessary to ensure conformance with all required standards.

Any other information as may be required to assess compliance with this chapter. (Ord. #2000-002, March 2000)

**14-405. Protection of existing plantings.** Where existing plantings are to be preserved, as noted in the landscape plan, the following protection measures or their performance based equivalents shall apply:

Species intended for preservation shall be clearly delineated in the field. These species should be selected prior to siting the building and paving. No soil should be placed around trees that are intolerant of fill and are to be saved. Dogwoods, birches, oaks, sugar maples and most conifers are, for example, intolerant to fill because their roots are often near the surface. Stockpiling of soil resulting from grading shall be located only in open areas. NO material or temporary soil deposits shall be placed within four (4) feet of shrubs or ten (10) feet of trees designated for preservation.

No soil shall be disturbed in a ten (10) foot radius or, if greater, within the drip line of the tree to be preserved.

Barriers used to protect existing plantings shall be self-supporting (i.e. not supported by the plants they are protecting), a minimum of three (3) feet high, and constructed of a durable material that will last until construction is completed.

Should machinery, during the construction process, be required to cross through a protected zone, at least four (4) inches of chip mulch shall be placed on the ground to displace the weight of machines and prevent loss of pores in the soil that allow passage of air and water to roots.

After construction, curbing placed around existing trees shall be at least three and one-half (3½) feet from the base of the tree, as measured six (6) inches above the ground or no closer than the halfway point between the drip line and the trunk of the tree, whichever is greater. (Ord. #2000-002, March 2000)

**14-406. Standards for accepting existing plantings.** Existing plantings will only be accepted as fulfilling the landscaping requirements of this chapter where they:

Are healthy and listed as an acceptable species in the "List of Acceptable Species" maintained by the town planner

Do not and are not likely to interfere with utilities, vision clearance standards, or obscure street lights meet the size, location and other applicable requirements of this chapter. (Ord. #2000-002, March 2000)

**14-407. Incentives for preserving specimen trees and existing plantings.** To encourage the preservation of a specimen tree or significant wooded area, setback requirements along side and rear property lines may, upon review and approval by the board of zoning appeals, be reduced by as much as twenty-five (25) percent. Also as noted in Section.....,<sup>1</sup> the number and size of required parking spaces may, if approved by the planning commission, be modified to encourage the preservation of existing plantings. (Ord. #2000-002, March 2000)

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<sup>1</sup> This is the way this reference appears in Ord. #2000-002, from which these provisions were taken.



**14-408. General landscape design standards.** General size specifications. At the time of planting, all required trees shall have a minimum trunk diameter of at least two (2) inches and shall be nursery grown. All required trees shall have a minimum height of six (6) feet when planted. All required shrubs used for buffering shall have a minimum height of two (2) feet when planted and shall be capable of reaching a height of six (6) feet within three (3) years of planting. Shrubbery used for other landscaping purposes shall be capable of reaching a minimum height of three (3) feet within three (3) years of planting. All shrubbery shall be nursery grown.

Tree types. Tree type may vary depending on overall effect desired. However, where ten (10) or more new trees are required, a mixture of more than one species shall be provided to create a natural look and guard against the possibility of disease obliterating all required trees. As a rule, trees should be indigenous, relatively fast-growing, not particularly susceptible to insects and disease, long-living and require little care.

General spacing standards. Proper spacing distances depend on the tree type, its growing habits, and whether freestanding specimens or an interlaced canopy is desired. As a general rule, unless a canopied effect is desired, a good guide is to space trees so as to exceed the farthest extent of branch development at maturity. Required shade trees shall generally have a minimum horizontal separation from other required trees of eight (8) feet. In all cases, required trees, whether new or existing, shall be spaced so that they will not interfere with utilities, obstruct vision clearance, or obscure street lights. (Ord. #2000-002, March 2000)

**14-409. Prohibited plantings.** It shall be unlawful for any person to plant trees as follows:

Within any recorded sewer or water easement: Any species prone to clogging water or sewer lines with roots, including, but not limited to, Poplar, Boxelder, Silver Maple, American Elm, Catalpa, Siberian Elm, Cottonwood, Black Walnut, and Weeping Willow.

Within any recorded easement for overhead electric or telephone line: Any species known to reach a mature height of greater than twenty (20) feet. (Ord. #2000-002, March 2000)

**14-410. Buffering.** Intent. Buffer yard requirements are designed to provide physical separation and visual screening between adjacent land uses that are not fully compatible, such as duplexes and service stations. Buffering is also necessary to create privacy, soften glare, filter noise, and modify climatic conditions.

Applicability. Buffer yards are required where the development of a new higher impact use, resulting from either a new use of a vacant lot or through a change in ownership or tenancy, abuts an existing lower impact use. Impact use

classifications are discussed below in subsection...<sup>1</sup> In cases where the use classification is uncertain, the planning commission shall make a decision based on the specific situation, character of the use, and the surrounding and/or proposed plan of development. For example, the use of public-owned buildings, which is permitted in all zoning districts, will have very different impacts on abutting properties depending on the nature of the use. As a result, buffering for these these kinds of uses shall be evaluated on the basis of the most similar private sector use and the uses prevalent in the surrounding neighborhood.

Impact Classification

(N) - No Impact: 1. Any use, unless otherwise listed below, which is permitted in a R-1 or R-1A zoning district; 2. Cemeteries; 3. Golf Courses; 4. Parks and similar uses.

(L) - Low Impact: 1. Any use, unless otherwise listed in a lower impact classification, which is permitted in the R-2, or B-1 zoning districts; 2. Community and neighborhood recreational facilities and similar uses.

(M) - Medium Impact: 1. Any use, which is only permitted in the B-3 or B-4 zoning districts; 2. Gasoline service stations; 3. Convenience stores; 4. Parking garages; 5. Auto repair garages and similar uses and 6. Mini-warehouses.

(H) - High Impact: 1. Any use only permitted in the M-1 or M-2 zoning districts and 2. Any proposed development which would create more than five-hundred (500) parking spaces.

Types of Buffering Required for different impact uses:

Proposed Use Classification

		N	L	M	H
Adjoining Use Classification	N	None	1	2	3
	L	None	None	1	2
	M	None	None	None	1
	H	None	None	None	None

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<sup>1</sup> This is the way this reference appears in Ord. #2000-002, from which these provisions were taken.

Example: A new apartment complex (a Low-Impact use) located in an R-3 zoning district will abut an existing single-family residential (a No-Impact use) area. The developers of the apartment complex, the higher impact use, will be responsible for creating and arranging for maintenance of a Class 1 buffer. However, if this apartment complex were to abut any equal or lower impact use, the developers of the complex would not be responsible for creating any new buffer area.

### Classification of Buffer Areas

#### Class 1:

A Class 1 buffer area is designed for those abutting uses which are only mildly incompatible. For example, an apartment complex abutting a duplex. As a result, the buffer requirements associated with the Class 1 buffer are minimal. One of the following three options would be credited as an acceptable minimum buffer:

#### Option A:

One (1) row of evergreen trees spaced no greater than eight (8) feet on center. Species which may require different spacing standards may be approved, provided adequate documentation is submitted to justify a variation.

#### Option B:

One (1) row of evergreen trees spaced no greater than twelve (12) feet on center and a minimum of two (2) shrubs provided per tree.

**Option C:**

A solid barrier brick or masonry wall or wooden fence or equivalent at least six (6) feet in height. Where a landscaped berm is used and would be periodically mowed, for maintenance purposes, no slope shall exceed twenty-five (25) percent. Berms planted with ground cover and shrubs may be steeper; however, no slope shall exceed fifty (50) percent.

**Class 2:**

Class 2 buffer areas are designed to provide greater shielding than is provided in the Class 1. Class 2 buffers are for clearly incompatible uses, which, because of noise, lighting, smell, etc. require larger buffers. For example, a proposed convenience store abutting an existing single-family neighborhood would require a Class 2 buffer. The Class 2 buffering requirements could be met by completing, at a minimum, one of the following options:

**Option A:**

A minimum buffer strip width of ten (10) feet with a row of trees no greater than twelve (12) feet on center and with no less than six (6) shrubs per tree.

**Option B:**

A minimum six (6) foot high fence, specifically approved by the planning commission, with a row of trees no greater than twelve (12) feet on center and with no less than two (2) shrubs per tree.

**Option C:**

A minimum buffer strip width of twelve (12) feet with a double row of buffer trees, with a minimum row separation of eight (8) feet, planted a maximum of twelve (12) feet on center.

Class 3:

The Class 3 buffer is designed for abutting uses which are completely incompatible. For example, a new industry which will abut an existing single-family neighborhood would be required to construct a Class 3 buffer along the abutting property line(s). At a minimum, Class 3 buffer requirements could be met by adhering to one (1) of the following options:

Option A:

A buffer strip with a minimum width of twenty-five (25) feet and with no less than three rows of buffer trees with minimum row separation of eight (8) feet and spaced no more than sixteen (16) feet on center.

Option B:

A minimum six (6) foot high fence, specifically approved by the planning commission, with two (2) rows of trees with row separation of not more than eight (8) feet and spaced no less than twelve (12) feet on center. The buffer strip shall be a minimum of twenty (20) feet. (Ord. #2000-002, March 2000)

**14-411. Parking lot landscaping. Intent.** The purpose of landscaping within and around parking areas is to:

Provide shade for comfort when walking and after returning to the parked vehicle. To help moderate the microclimate on hot days, and buffer winter winds.

Help muffle noise.

Help purify the air by absorbing exhaust gasses and giving off pure oxygen.

Modify the rate of stormwater runoff.

Break up the broad expanse of pavement associated with parking lots and provide a sense of scale that makes people feel more comfortable.

Provide variety instead of monotony.

Help control speed and direct vehicular and pedestrian traffic flow.

Safely separate vehicular traffic from pedestrians.

Enhance property values and business opportunities by providing a pleasant transition from the roadway into the store or business area.

Provide reference points for entrances and exits and help visitors locate parked cars.

And, to minimize the hazard of nighttime glare from headlights.

Applicability. Parking lot landscaping shall be required for all uses which involve the creation of more than ten (10) off-street parking spaces, either as a new use or by expansion. Where parking spaces are not paved and striped, parking lot landscaping shall be provided, as required by this section, for uses which designate more than two-thousand (2000) square feet of the site for parking purposes. "Interior" landscaping shall not be required for parking garages or other enclosed parking structures. Such use, however, shall be buffered as required.

Planting requirements. Where parking lot landscaping is required, one (1) shade tree or two (2) ornamental trees and at least two (2) shrubs per required tree shall be planted for every ten (10) parking spaces or, in the case of existing parking lots which are enlarged, every additional ten (10) spaces. Unmarked lots shall have one (1) shade tree or two (2) ornamental trees and at least two (2) shrubs per required tree for every two-thousand (2000) square feet of area designated or used on a daily basis for parking.

Standards for trees used specifically in parking lot landscaping. Any trees used for parking lot landscaping shall meet all of the following minimum requirements: They shall have a clear trunk of at least six (6) foot above finished grade to provide for maximum vision clearance.

They shall be able to thrive in the existing soil and should be tolerant of excessive heat, de-icing salt, and the oils and other chemicals often found in relatively greater volumes in parking lot environments.

They shall be species with strong wood which is not prone to breakage in wind or ice storms.

They shall be fruitless or otherwise free of parts that fall and could damage vehicles, clog drains, or make pavement slippery.

They shall be free of unacceptable levels of disease or insect pests.

They shall not interfere with either above or below ground utilities.

Where landscaping is desired in a previously developed and paved portion of a site, the pavement cutouts shall be, as verified by the professional responsible for preparing the landscape plan, of sufficient size for tree survival and growth.

Spacing requirements. Trees required for parking lot landscaping may be clustered. However, in no case shall any individual parking space for greater than seventy-five (75) feet from the trunk of a required parking lot tree and no more than one-hundred (100) feet from two (2) or more required parking lot trees. Distances shall be measured in a straight line from the dbh to the nearest portion of the individual parking space. Parking lot landscaping shall not extend more than fifteen (15) feet beyond any area designated or commonly used for parking. And, in no case, shall parking lot landscaping be counted toward fulfilling any other landscaping (e.g. buffering) requirements of this chapter.

Interior planting islands--dimensions. Where interior planting islands are used to meet the requirements of this section, each island shall be no less than five (5) feet wide at its greatest point in any dimension. Where a tree is located within a planting island, there shall be provided at least sixty (60) square feet of pervious land area for each tree within the island. To prevent bumper damage, required trees shall be planted so that the base of the tree, as measured six (6) inches above the ground, shall be at least three and one-half (3 ½) feet behind the curb or traffic barrier. Where an island is parallel to parking spaces, the island shall be at least nine (9) feet wide to allow car doors to swing open. In all cases, to prevent damage to required landscaping, a minimum six (6) inch concrete raised curb or wheelstop shall be required. In addition, curb breaks shall be provided for drainage control into or out of planting islands.

Interior planting islands and parking space dimensions. Where parking spaces abut planting islands or perimeter landscape areas the required length of parking spaces may be reduced by two (2) feet. In fact, general parking space dimensions may be reduced and an area designated for compact vehicles established in order to free up space needed to meet any of the parking lot landscaping requirements of this chapter. (Ord. #2000-002, March 2000)

**14-412. Frontage landscape areas. Intent.** In addition to parking lot landscaping and buffering requirements, plantings shall also be provided along the public road frontage for those applicable situations noted below in order to:

Better define parking areas

Shield views of parked cars to passing motorists and pedestrians

Create a pleasing, harmonious appearance along the roadway

Promote individual property values and community aesthetics.

**Applicability.** Any new multi-family, commercial, or industrial development which fronts along the same public right-of-way for at least fifty (50) feet shall be required to plant frontage landscaping along that frontage. Frontage landscaping shall also be required where an existing lot of record is used by an existing multi-family, commercial, or industrial entity and is combined with adjacent property to create at least fifty (50) feet of additional public road frontage. In which case, frontage landscaping shall be required along that additional frontage.

**Requirements.** Landscaping along any public road frontage shall be within a strip which is at least eight (8) feet wide. This strip shall include at least one (1) shade tree or two (2) ornamental trees for each fifty (50) feet of public street frontage. Required trees may be clustered or spaced in any manner desirable to the developer and owner, provided such spacing does not interfere with utility line locations or vision clearance. Between required trees, additional landscaping in the form of shrubs, berms, brick or masonry walls or other landscaping or combinations of landscaping acceptable to the planning staff and building official shall be provided. This landscaping shall be at least three (3) feet in height or, in the case of plantings, capable of reaching three (3) feet in height within three (3) years and shall be spaced so that no non-landscaped "gaps," excluding driveways and sight lines, exist which are greater than six (6) linear feet. Plantings other than trees must be at least eighteen (18) inches high when planted. A gap greater than six (6) feet may be permitted by the planning staff where a clear safety concern is demonstrated or a more natural look will be conveyed. (Ord. #2000-002, March 2000)

**14-413. Completion bond.** In order to ensure the acceptable completion of required landscaping, the building inspector may withhold a certificate of occupancy until required plantings are installed per the approved landscape plans. If a certificate of occupancy is desired and it is not an appropriate time of year for planting, a completion bond, irrevocable letter of credit, or similar security measure shall be provided by the developer. If landscaping is not planted according to the approved landscape plan, the town shall retain the right to cash the bond or security measure, after providing written notification to the developer, and complete the landscaping. (Ord. #2000-002, March 2000)



**14-414. Maintenance/replacement bond.** An amount equal to at least one-hundred ten (110) percent of the projected cost of the landscaping of the approved landscape plan shall be placed by the developer with the town for a period of not less than two (2) years. This bond shall be placed with the town after all landscaping has been satisfactorily completed. If landscaping has died and not been removed and replaced, the town shall retain the right to cash the bond, after providing written notification to the developer, and complete the maintenance, removal and/or replacement. As a general rule, plantings that are required to be planted or those that are preserved shall be removed and replaced with equivalent plantings if such plantings are not living within one (1) year after the issuance of a certificate of occupancy or the release of a completion bond. (Ord. #2000-002, March 2000)

**14-415. Continued maintenance requirements.** Upon expiration or release of any applicable maintenance and replacement bond, property owners shall remain responsible for maintaining plantings in a healthy and orderly manner. Specifically, this shall mean:

(1) All plant growth in landscaped areas must be controlled by pruning, trimming, or other suitable methods so that plant materials do not interfere with public utilities, restrict pedestrian or vehicular access, or otherwise constitute a traffic hazard;

(2) All planted areas be maintained in a relatively weed-free condition and clear of undergrowth;

(3) All plantings be fertilized and irrigated at intervals as are necessary to promote optimum growth;

(4) All trees, shrubs, ground covers, and other plant materials shall be replaced if they die or become unhealthy because of accidents, drainage problems, disease, or other causes.

Also, where man-made materials are used in lieu of plantings, such materials shall be maintained in good repair, including, where applicable, periodic painting or finishing. Subsequent building permits may be withheld if, after written notification, landscaping, either required or preserved, is not properly maintained. (Ord. #2000-002, March 2000)

**14-416. Applicable procedures--new developments.** Where landscape plans are required, such plans shall be submitted as part of the site plan review process. These plans, which shall be reviewed by the Town of Bluff City Planning Commission, shall be submitted no later than the last business of the month in order to be included on the commission's agenda. The planning commission will evaluate the plans based on their adherence to the provisions of this chapter. The commission will render an acceptance, denial, or conditional acceptance. Where plans are approved subject to certain conditions, such conditions may be satisfied by working with the planning staff, provided

such conditions are classified as "minor," as described below. (Ord. #2000-002, March 2000)

**14-417. Application procedures—expansions of and/or alterations to existing developments.** Where a use of property is expanded or changed so as to required landscaping, the applicable provisions of sections, shall apply so that the town is provided with a "security" that the landscaping will be installed and maintained as required in this chapter. Where required landscaping can only be provided in existing paved areas, pavement cut-outs shall be of sufficient size to ensure the survival of the species.

**Minor changes to approved or conditionally approved plans.** Minor changes made to approved landscape plans shall be first approved by the town planner before any such changes may be made to these original plans. Where such proposed changes would clearly compromise the intent and purpose of this chapter, such changes shall be deemed as "major" and shall be presented to the planning commission for a decision.

**Expiration of approved landscape plans.** In keeping with site development requirements, work related to an approved landscape plan shall be initiated within one (1) year after formal approval by the planning commission. Where such work is not initiated, the plans shall be re-submitted to the planning commission. (Ord. #2000-002, March 2000)

**14-418. Alternative methods of compliance.** In cases where a strict interpretation of the requirements of this chapter may be either physically impossible or would create some obvious and unusual hardship, the developer may present to the planning commission an alternative method of compliance. In all cases, such alternative means of complying with the provisions of this chapter shall only be permitted if they are specifically approved by the planning commission. In evaluating the petitioner's request for alternative compliance, the planning commission shall make a determination on the basis of whether one or more of the following conditions would clearly apply:

- (1) The development entails obvious space limitations or is located on unusually shaped parcels;
- (2) Topography, soil, vegetation, or other site conditions are such that full compliance is impossible or impractical or unnecessary;
- (3) Due to a change of use of an existing site, the required bufferyard is larger than can be provided;
- (4) Obvious safety considerations are involved.
- (5) An alternated plan, as demonstrated by a landscape specialist, would clearly improve environmental quality, traffic safety, and the overall aesthetics of the town to an extent much greater than would be possible by adhering to the provisions of this chapter.

In all cases, if an alternate means of compliance is permitted, such compliance shall approximate the requirements of this chapter to the greatest extent possible. (Ord. #2000-002, March 2000)

**14-419. Conflict.** If the provisions of this chapter conflict with other ordinances or regulations, the more stringent limitation or requirement shall govern or prevail to the extent of the conflict. (Ord. #2000-002, March 2000)

## CHAPTER 5

### SIGN ORDINANCE

#### SECTION

- 14-501. Purpose and intent.
- 14-502. Minimum standards.
- 14-503. Definitions.
- 14-504. Permit required.
- 14-505. Permit exceptions.
- 14-506. Prohibited signs.
- 14-507. Structural requirements.
- 14-508. Inspection, maintenance and removal.
- 14-509. Outdoor advertising signs.
- 14-510. Nonconforming signs.
- 14-511. Sign regulations by district.
- 14-512. Administration.

**14-501. Purpose and intent.** The purpose of this chapter is to create the legal framework to control the erection, location, and maintenance of all exterior signs, billboards, and other advertising structures and devices to insure their safe construction, traffic safety, pedestrian, safety, property values, and the natural beauty of Bluff City. Any sign placed on land or on a building for the purposes of identification or for advertising a use on premises shall be deemed to be accessory and incidental to such land, building or use. It is intended that the signs be appropriate to the land, building or use to which they are accessory, and be adequate, but not excessive, for the intended purpose of identification or advertisement. (Ord. 2000-004, April 2000)

**14-502. Minimum standards.** The minimum standards set forth in this chapter shall not relieve an owner or tenant of the responsibility for compliance with other local ordinances, codes and regulations. (Ord. 2000-004, April 2000)

**14-503. Definitions.** (1) "Sign area." The sign area is the area within a single continuous perimeter enclosing the extreme limits of the sign but the sign area shall not include any structural elements not an integral part of the sign.

(2) "Sign height." The height of a sign shall be the maximum vertical distance from the uppermost extremity of a sign or sign support to the average ground level at the base of the sign.

(3) "Business sign." A sign which primarily directs attention to a business or profession conducted on premises.

(4) "Outdoor advertising sign." A sign which conveys some information, knowledge, or idea to the public which is not primarily related to a business or profession on premises.

(5) "Portable signs." Any sign which is or is intended to be affixed or mounted to a frame for the expressed purpose of easy mobility, and is intended ordinarily to be leased for short periods of time for promotional sales, grand openings, etc. Any sign which does not conform to the Southern Building Code, i.e. wind resistance, electrical wiring, etc., shall be considered to be in violation of these regulations. (Ord. 2000-004, April 2000)

**14-504. Permit required.** (1) No sign, except for those signs listed in section 14-505 below, shall be painted, constructed, erected, remodeled, relocated, or expanded until a sign permit has been obtained in accordance with the provisions of this chapter.

(2) No permit for any sign shall be issued unless the sign complies with all requirements of the chapter, with the requirements of the Southern Standard Building Code as amended for sign and outdoor displays. (Ord. 2000-004, April 2000)

**14-505. Permit exceptions.** (1) The following operations shall not be considered as creating a sign and therefore shall not require a sign permit.

(a) The changing of the advertised copy of message on an approved sign or billboard which are specifically designed for the use of replaceable copy.

(b) Painting, cleaning and other normal maintenance and repair of a conforming sign unless a structural change is made.

(2) The following enumerated signs shall be exempt from the requirements of this chapter:

(a) Signs of any constituted governmental body such as traffic signs and signals, legal notices, railroad crossing signs, danger signs, and other temporary emergency, and nonadvertising signs.

(b) Memorial tablets or signs, historic markers, corner stones, or a building name and date of erection when constructed of incombustible material.

(c) Signs required to be maintained by law such as governmental order, rule, or regulation with a total surface area not to exceed ten (10) square feet.

(d) Flags, emblems, or insignias of any constructed governmental body, religious groups, civic organizations and service clubs.

(e) Small signs displayed for the direction or convenience of the public including signs which identify restrooms, location of public telephones, freight entrances, parking or the like with a total area not to

exceed four (4) square feet. Horizontal directional signs flush with paved areas are exempt from these standards.

(f) Seasonal displays and decorations not advertising a product, services, or entertainment.

(g) Freestanding signs or signs attached to fences at approximate eye level that are not larger than four (4) square feet warning the public against hunting, fishing, trespassing, dangerous animals, swimming, etc.

(h) Any information or directional signs erected by a public agency to give directions and distances to commercial facilities or points of interest for the convenience of the traveling public but the signs may not give direction to any specific business establishment.

(3) Except where specifically qualified below, no permit shall be required for any of the following temporary signs:

(a) Official notices or advertisement, required by the direction of any public or court officer in the performance of his official or directed duties or by trustees under deeds of trust, deeds of assignment or other similar instruments; provided, that all such signs shall be removed not later than ten (10) days after the last day of the period for which they are required to be displayed.

(b) Political campaign signs not exceeding four (4) square feet in all other zones may be erected. Each sign may not be erected more than ninety (90) days prior to the nomination, election, or referendum which it advertises, and shall be removed within seven (7) days after the announced results of that nomination, election or referendum.

(c) Temporary signs not exceeding sixteen (16) square feet in area announcing a campaign, drive or event of a civic, philanthropic, education or religious organization, provided, that the sponsoring organization shall insure proper and prompt removal of such sign. Such sign may be maintained for a period not to exceed one (1) month.

(d) Real estate signs, up to total area of nine (9) square feet, advertising the sale, rental or lease of the premises or part of the premises on which the signs are displayed. Such signs shall be removed within three (3) days of the sale, rental or lease.

(e) Construction signs which identify the architects, engineers, contractors and other individuals or firms involved with the construction, but not including any advertisement of any product, and signs announcing the character of the building enterprise or the purpose for which the building is intended, during the construction prior, to a maximum area of thirty-two (32) square feet for each sign. The sign shall be confined to the site of the construction and shall be removed within fourteen (14) days following completion of construction.

(f) Temporary or portable signs not exceeding thirty-five (35) square feet announcing such happenings as "Grand Opening," "Under

New Management," or "Going Out of Business," subject to the following conditions:

- (i) For a period not to exceed thirty (30) days.
- (ii) On a given property, such a temporary sign may be displayed only one (1) time in a twelve (12) month period. (Ord. 2000-004, April 2000)

**14-506. Prohibited signs.** The following signs are prohibited in any zoning district and in any area of the Town of Bluff City.

- (1) Any lighting arrangement by exposed tubing or strings of lights, outlining any portion of a building or structure or affixed to any ornamental feature thereof.
- (2) Any portable sign, except as provided for in section 14-505(3)(f).
- (3) Any sign that violates any provision of any law or regulation of the State of Tennessee or United States relative to outdoor advertising.
- (4) Any sign that violates any provision of the southern Standard Building Code.
- (5) Any sign so located so as to obscure all or any portion of a sign or traffic signal erected by a governmental authority.
- (6) Any sign of which all or any part is in motion by means of the atmosphere, including fluttering, or rotating.
- (7) Any sign displaying flashing or intermittent lights, or lights of changing degrees of intensity of color, except signs indicating time, temperature, barometric pressure, air pollution index or THI but only when the sign does not constitute a public safety or traffic hazard in the judgment of the building inspector.
- (8) Any sign that obstructs any window, door, fire escape, stairway, ladder, opening or access, intended for light, air, ingress to or egress from any building.
- (9) Any sign that is attached to a tree.
- (10) Any sign that is attached to a utility pole, whether on public or private property, except utility warning announcements.
- (11) Any sign, which by reason of its location, position, size, shape or color may obstruct impair, obscure, interfere with the view of, or be confused with, any traffic control sign, signal or device, or where it may interfere with, mislead or confuse traffic. To those ends, no sign shall use the words "Stop," "Slow," "Caution," "Yield," "Danger," "Warning," or "Go" when such sign may be confused with a traffic control sign used or displayed by a public authority. (Ord. 2000-004, April 2000)

**14-507. Structural requirements.** All signs shall meet the structural requirements for same as set forth in the Southern Standard Building Code. (Ord. 2000-004, April 2000)

**14-508. Inspection, maintenance and removal.** (1) Signs for which a permit is required shall be inspected annually by the building inspector for compliance with this chapter and other ordinances of Bluff City.

(2) All signs and components thereof shall be kept in good repair and in a safe, clean, neat and attractive conditions.

(3) When any sign becomes insecure, in danger of falling, or otherwise unsafe, or if any sign shall be unlawfully installed, erected or maintained in violation of any provisions of the Southern Standard Building Code, the owner, person or firm maintaining the sign shall, upon written notice of the building inspector, shall within not more than ten (10) days make such sign conform to the provisions of this chapter or shall remove it. If within ten (10) days the order is not complied with the building inspector may remove such sign at the expense of the owner or lessee thereof as provided in the Southern Standard Building Code.

(4) The building inspector may remove a sign immediately and without written notice if in his opinion, the condition of the sign is such as to present an immediate threat to the safety of the public.

(5) A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer conducted on the premises and has not been so conducted for a period of one (1) year. If the owner or lessee fails to remove it, the building inspector shall give the owner fifteen (15) days written notice to remove it. Upon failure to comply with this notice, the building inspector may remove the sign at the expense of the owner or lessee thereof as provided in the Southern Standard Building Code. (Ord. 2000-004, April 2000)

**14-509. Outdoor advertising signs.** Outdoor advertising signs, also commonly referred to as billboards or poster panels, which advertise products or business primarily not connected with the site of building on which they are located, shall be allowed as follows:

(1) Outdoor advertising signs may be located in b-3, B-4 and M-1 districts only.

(2) Outdoor advertising sign shall be subject to the same minimum yard requirements as set forth for the zoning district in which they are located, and shall not be located within 100 feet of any residential district. Outdoor advertising signs shall not be within twenty-five (25) feet of any other sign or building.

(3) Outdoor advertising signs shall be located so as to be primarily visible from arterial streets, and shall not be located along or be primarily visible from any other street.

(4) Outdoor advertising signs may be single face or double face, but no structure may contain more than two (2) signs not exceeding a total area of 288 square feet per facing. (Ord. 2000-004, April 2000)



**14-510. Nonconforming signs.** (1) Signs which do not conform to the regulations and restrictions prescribed for the zoning district in which they are situated, but which were erected in accordance with all applicable regulations in effect at the time of their erection may remain erected only as long as the then existing use which they advertise or identify remains.

(2) No nonconforming sign shall be enlarged, reconstructed, structurally altered or changed in any manner, nor shall it be worded so as to advertise or identify any use other than that in effect at the time it became a nonconforming sign except that the advertising copy on a nonconforming outdoor advertising sign may be changed.

(3) No nonconforming sign shall be moved on the same lot nor to another lot unless the moving will relocate the sign into a zoning district or any area in which it would conform.

(4) When a nonconforming sign ceases to be lawful, the sign shall be subject to removal under provisions of section 14-508. Portable signs in place and in use at the time of the adoption of this ordinance shall be given a six month grace period except those portable signs deemed by the building inspector to be a public hazard.

(5) If a nonconforming use ceases to be a lawful nonconforming use under Tennessee Law or Bluff City Zoning Ordinance then the sign which advertises or identifies it shall also become an unlawful sign and the provisions of section 14-508 shall be applicable. (Ord. 2000-004, April 2000)

**14-511. Sign regulations by district.** The following regulations shall apply to all signs which require a permit by the provisions of this section.

The regulations as set forth shall be qualified by those additional provisions which may be presented elsewhere in this chapter for particular uses.

(1) **Residential district.** In addition to regulations which may be presented for a given use in a particular zoning district, the following regulations shall apply to all signs which are located on unused lands or are accessory to residential uses in all residential districts.

(a) One (1) sign not exceeding four (4) square feet in area shall be permitted for each dwelling unit. Such sign shall indicate only the name of the occupant, address, or home occupation.

(b) In addition to the signs permitted by paragraph 1 above, a twenty (20) square foot sign may be permitted to identify the name of a single family development at the major entrance thereto.

(c) One sign not exceeding thirty-six (36) square feet in area, advertising a subdivision development and located therein adjacent to any street bonding such development may be permitted, provided that no such sign shall be displayed for a longer time than two (2) years and shall require a permit from the building inspector. One (1) off-site sign not exceeding twenty-five (25) square feet may be permitted subject to the same limitations.

(d) Permitted signs may be located anywhere on the premises beyond the five (5) foot setback.

(e) All building mounted signs shall be flush against the building and shall not project above the roof line.

(f) No freestanding sign shall extend more than twelve (12) feet above the ground including any part of the supporting members.

(g) Illumination, if used, shall be what is known as white and not colored light, and shall not be blinking, fluctuating, or moving. Light rays shall shine only on the sign or upon the property where the sign is located and shall not spill over the property line in any direction except by indirect reflection.

(h) Multi-family dwellings may have one (1) or more signs per building with a total permitted sign area of twelve (12) square feet per building which shall indicate only the name and address of the building. In addition, one, thirty (30) square foot sign may be permitted for each street frontage to identify the name, address, phone number and owner of the development.

(i) One sign not exceeding sixteen square feet in area shall be allowed for each public owned buildings and uses, public and private schools and churches located in a residential zone. In addition, one off-site sign shall be allowed on the arterial street nearest the use for which the sign is designed. This sign shall not exceed thirty (30) square feet and shall meet all other requirements of this chapter.

(2) Commercial districts. In addition to the regulations which may be presented for a given use in a particular zoning district, the following regulations shall apply to all signs which are accessory to commercial uses located in any commercial district.

(a) Building mounted signs on buildings housing only one tenant shall not exceed thirty-six (36) square feet of area on the building for the first 100 linear feet of building frontage plus one (1) square foot of sign area for each linear foot over 100 linear feet of building frontage. No such sign, however, shall exceed 100 square feet in area.

(b) Building mounted sign on buildings housing more than one (1) tenant shall not exceed a total of one (1) square foot of sign area on the building of each linear foot of building frontage occupied by each tenant, to a maximum sign area of 100 square feet.

(c) Building mounted signs may be located anywhere on the surface of the building and may project nor more than three (3) feet therefrom.

(d) No building mounted sign shall extend more than four (4) feet above the lowest point of the roof, except that where there is a structural or functional part of the building extending above the roof, such as a parapet, chimney, mullion, mansard or other such architectural embellishment, signs may be placed on but limited to the race of that part

and extend not more than five (5) feet above the highest point of the roof; but in no even shall a sign extend above the height limit established for the zoning district in which a sign is located.

(e) Signs may be on the vertical face of a marquee but shall not project below the lower edge of the marquee. The bottom of the marquee sign shall be no less than ten (10) feet above a walkway or grade at any point. No part of the sign shall extend above the vertical marquee face, and no such sign shall exceed seven (7) feet in height.

(f) Freestanding signs shall not exceed fifty (50) square feet for the first 100 linear feet of street frontage plus one (1) square foot of sign area for each linear foot over 100 linear feet of street frontage not to exceed a maximum of two hundred (200) square feet. Freestanding sign shall e set back a minimum of five (5) feet from all property lines and shall not exceed a height of twenty-six (26) feet above ground level including supports.

(g) All signs shall have a minimum clearance of nine (9) feet above a walkway and fifteen (15) feet above a driveway or alley.

(h) Signs shall be limited to identifying or advertising the property, the individual enterprises, the products, services, or the entertainment available on the same property where the sign is located.

(i) One building mounted sign per street frontage per tenant is permitted. One freestanding sign per street frontage per building is permitted. These signs must be located on the premises for the products or services they primarily advertise or they shall be subject to Section 107 (outdoor advertising signs).

(j) Service stations may be allowed one (1) additional square foot of sign on each gasoline pump to identify the specific product dispensed.

(3) Manufacturing district. In addition to regulations which may be presented for a given use in a particular zoning district, the following regulations shall apply to all property developed for industrial uses in areas zoned for manufacturing.

(a) Building mounted signs shall not exceed a total area of two (2) square feet for each linear foot of building frontage to a maximum total area of all signs permitted for any establishment of 300 square feet. Where the frontage is on more than one street, only the sign area computed with the frontage of that street shall face that street.

(b) Signs may be flat against the wall and located anywhere on the surface of the building. Signs may be projecting signs only if they do not create any safety hazards.

(c) All signs shall have a minimum clearance of nine (9) feet above a walkway and fifteen (15) feet above a driveway or alley.

(d) No building mounted sign shall extend more than four (4) feet above the lowest point of the roof; except where there is a structural

or functional part of the building extending above the roof, such as a parapet, chimney, mullion, mansard or other such architectural embellishment, signs may be placed on and limited to the face of that part and extend not more than five (5) feet above the highest point of the roof; but in no event shall a sign extend above the height limit established for the zoning district in which a sign is located.

(e) One (1) freestanding or ground-supported sign may be erected for each industrial use. Such sign shall have a maximum area of 175 square feet, have a minimum setback of five (5) feet, and not exceed twenty-six (26) feet in height including any supports.

(f) Signs allowed by this section shall be limited to identifying or advertising the property, the individual enterprises, the products, services, or entertainment available on the same property where the sign is located. (Ord. 2000-004, April 2000)

**14-512. Administration.** (1) Permit requirements.

(a) Except as otherwise provided herein, no sign shall be erected, altered, or relocated without a permit issued by the building inspector.

(b) Any sign erected under permit shall indicate in the lower right hand corner the number of that permit; and the name of the person, firm or corporation owning, erecting, maintaining or operating such sign.

(2) Permit application. The application for a sign permit shall be filed with the building inspector on forms furnished by the town. The application shall contain the location of the sign structure, the name and address of the sign owner and drawings showing the design of the sign and such other pertinent information as the building inspector may require to insure compliance with the ordinance of the town. Any sign located within the Town of Bluff City shall be in conformity with the uses existing in the neighborhood where it is proposed to be located. The Bluff City Planning Commission shall determine any questions concerning the conformity of a sign.

(3) Fee for sign permits. (a) For all signs valued at greater than \$100.00 - The fee shall be \$25.00

(b) Outdoor advertising structures - \$75.00 per new sign, and \$50.00 annual renewal fee.

(c) Portable signs - \$25.00 per sign per year.

It shall be the responsibility of the company, firm, or individual constructing or planning any sign to obtain any required permit.

(4) Nullification. (a) A sign permit shall become null and void if the work for which the permit was issued has not begun within a period of six (6) months after the date of the permit.

(b) In the event that construction cannot be commenced within the six (6) month period, an application for extension of an additional six (6) month period may be made to the building inspector.

(5) Variances. (a) Except for instances relating to signs or sign structure location or proposed to be located on or over public property, any person who has been ordered by the building inspector to incur and expense for the alteration or removal of a sign may appeal to the board of zoning appeals. The board of zoning appeals may permit the alteration or permit the sign to remain, provided it finds that the sign is safe, necessary to the occupation which it represents, and does not conflict with the intent of the ordinance.

(b) In cases where an individual enterprise located within a shopping center would be so situated as not to have frontage visible from a street the board of zoning appeals may grant sign area for such uses to be erected at entrances. In granting such a variance the board of zoning appeals shall limit the area of such signs to that which in its opinion is reasonably in keeping with the provision of this chapter.

(c) The board of zoning appeals shall hear and decide appeals where it is alleged by the permit applicant that there is an error in any permit, decision, determination, or refusal made by the building inspector or other administrative official in carrying out or enforcing any provision of this chapter.

(d) The board of zoning appeals shall hear and decide applications for variance by reasons of exceptional topographical conditions, practical difficulties, or undue hardships caused by the strict application of the ordinance for additional signs, sign area, sign height and sign location.

(6) Penalties. Any person violating any provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be fined not more than fifty dollars (\$50.00) for each offense. Each day such violation shall continue shall constitute a separate offense. (Ord. 2000-004, April 2000)

## CHAPTER 6

### STORMWATER MANAGEMENT ORDINANCE

#### SECTION

- 14-601. Short title.
- 14-602. Purpose.
- 14-603. Definitions.
- 14-604. Regulated land disturbing activities.
- 14-605. Permit required for any land disturbing activity.
- 14-606. Stormwater plan required.
- 14-607. Stormwater plan requirements.
- 14-608. Plan must contain measures to meet approved standards.
- 14-609. Grading permit application.
- 14-610. Plan development at owner/developer's expense.
- 14-611. Plan submitted to stormwater coordinator.
- 14-612. Plan submitted in number satisfactory to planning commission.
- 14-613. Plan review.
- 14-614. Grading permit and security.
- 14-615. Stormwater coordinator may require additional protective measures.
- 14-616. Certification of design professional.
- 14-617. Stormwater management facilities and drainage structures maintained.
- 14-618. Improperly maintained stormwater management facilities and drainage structures.
- 14-619. Town may take ownership of stormwater management facilities and drainage structures.
- 14-620. Technical assistance.
- 14-621. Stormwater coordinator responsible for providing safeguards in projects less than one acre or utilizing less than three (3) lots.
- 14-622. Grading permit also required for any project on less than one acre involving grading, filling, or excavating.
- 14-623. Existing developed properties with stormwater concerns.
- 14-624. Improvements required in existing developments normally at owner's expense.
- 14-625. Town may take responsibility for existing stormwater management facilities and drainage structures.
- 14-626. Improvements needed at existing locations determined by the stormwater coordinator.
- 14-627. Improvements required with existing developments subject to appeal.
- 14-628. Monitoring, reports, and inspections.
- 14-629. Certificate of occupancy not issued until approvals.
- 14-630. Plan construction acceptance and security release.
- 14-631. Appeal of administrative action.

- 14-632. Town clean-up resulting from violations at developer's/owners expense.
- 14-633. Illicit discharge and illegal dumping during construction.
- 14-634. Permanent water quality stormwater management requirements.
- 14-635. Illicit discharge and illegal connection regulations.
- 14-636. Variances.
- 14-637. Penalties and enforcement.
- 14-638. Severability.

**14-601. Short title.** This chapter shall be known as the "Stormwater Management Ordinance of the Town of Bluff City, Tennessee." (as added by Ord. #2003-001, May 2003, and replaced by Ord. #2008-001, Jan. 2008, and Ord. #2012-016, Oct. 2012)

**14-602. Purpose.** (1) The purpose of this ordinance is to conserve the land, water and other natural resources of the Town of Bluff City, and promote the public health and welfare of the people by establishing requirements for the management of stormwater and by establishing procedures whereby these requirements shall be administered and enforced; and to diminish threats to public safety from degrading water quality caused by soil erosion and sediment runoff, the runoff of excessive stormwaters and associated pollutants; reduce the discharge of pollutants to the town's stormwater system, and to reduce flooding and the hydraulic overloading of the town's stormwater system; and to reduce the economic loss to individuals and the community at large.

(2) The Town of Bluff City is required by federal law, particularly 33 U.S.C. 1342(p) and 40 CFR 122.26, to obtain a National Pollutant Discharge Elimination System (NPDES) permit through the Tennessee Department of Environment and Conservation (TDEC) to reduce stormwater flows and associated pollutants discharged into waterways through Bluff City's stormwater system and drainage ways. The NPDES permit requires the town to impose controls on future and existing development necessary to reduce the discharge of pollutants in stormwater to the maximum reasonable extent using management practices, control techniques and system design and engineering methods, and such other provisions which are determined to be appropriate for the control of such pollutants.

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

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

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

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

(d) Review and approve plans and plats, where appropriate, for stormwater management in proposed subdivisions and other developments;

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

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

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

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

(4) The entity, person, or department designated by the Town of Bluff City Board of Mayor and Aldermen as stormwater coordinator shall administer the provisions of this ordinance. (as added by Ord. #2003-001, May 2003, and replaced by Ord. #2008-001, Jan. 2008)

**14-603. Definitions.** For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) "Accidental discharge" means a discharge prohibited by this chapter which occurs by chance and without planning or thought prior to occurrence.

(2) "Adequacy of outfalls." The capacity of the receiving channel, stream, waterway, storm drain system, etc., and a determination whether it is adequately sized to receive runoff from the developed site so as to not cause erosion and/or flooding.

(3) "Best Management Practices (BMPs)." Schedules of activities, prohibitions of practices, maintenance procedures, water quality management facilities, structural controls and other management practices designed to prevent or reduce the pollution of waters of the United States. Water quality BMPs may include structural or non-structural practices.

(4) "Channel." A natural or man-made watercourse with a defined bottom and banks to confine and convey continuously or periodically flowing stormwater.

(5) "Clean Water Act" means the Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*), and any subsequent amendments thereto.

(6) "Construction activity" means activities subject to the Town of Bluff City Stormwater Erosion and Sediment Control Ordinance or NPDES general



construction permits. These include construction projects resulting in land disturbance. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

(7) "Covenants for maintenance of stormwater facilities and best management practices." A legal document executed by the property owner, or a homeowners' association as owner of record, and recorded with the register of deeds in the Sullivan County, Tennessee Courthouse which guarantees maintenance of water quality management facilities and best management practices.

(8) "Development." Any land change that alters the hydrologic or hydraulic conditions of any property, often referred to as "site development." Development includes, but is not limited to, providing access to a site, clearing of vegetation, grading, earth moving, providing utilities, roads and other services such as parking facilities, water quality management facilities and erosion control systems, potable water and wastewater systems, altering land forms, or construction or demolition of a structure on the land.

(9) "Development plan." Detailed engineering or architectural drawing(s) showing existing site conditions and proposed improvements with sufficient detail for town review, approval, and then subsequent construction. The contents of a development plan are further defined by the town zoning ordinance, subdivision regulations, and other town departmental standards for constructing developments and public works projects.

(10) "Denuded area." Areas disturbed by grading, tilling, or other such activity in which all vegetation has been removed and soil is exposed directly to the elements allowing for the possibility of erosion and stormwater and sediment runoff.

(11) "Developer." Any person, owner, individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns.

(12) "Drainage." A general term applied to the removal of surface or subsurface water from a given area either by gravity or by pumping; commonly applied to surface water/stormwater.

(13) "Drainage ways and local waters." Any and all streams, creeks, branches, ponds, reservoirs, springs, wetlands, wells, drainage ways and wet weather ditches, or other bodies of surface or subsurface water, natural or artificial including Bluff City's stormwater system; lying within or forming a part of the boundaries of the Town of Bluff City, or the areas under the regulatory responsibility of the Bluff City Planning Commission that are adjacent to or intended to be served by the Bluff City Sewer System.

(14) "Enforcement officer." The stormwater coordinator or any other person designated by the Bluff City Board of Mayor and Aldermen, such as a Town of Bluff City Police Officer, to enforce the stormwater management ordinance.

(15) "Erosion." The general process whereby soils are moved by flowing surface or subsurface water.

(16) "Exceptional and historical trees." Those trees or stands of trees that are exceptional representatives of their species in terms of size, age, or unusual botanical quality, or which are associated with historical events.

(17) "Existing stormwater facility." Any existing structural feature that conveys, slows, filters, or infiltrates runoff after a rainfall event.

(18) "Grading permit." The permit that must be issued by the stormwater coordinator, or in his/her absence, the town's designee, before any land disturbing activity is undertaken by a developer; or when grading, filling, or excavating is proposed on any project.

(19) "Hot spots" means sites, developments, or uses that have the potential of discharging pollutants or concentrations of pollutants that are not normally found in stormwater. These sites could include concrete and asphalt facilities, auto repair, auto supply, and large commercial parking lots.

(20) "Illicit discharge" means any direct or indirect non-stormwater discharge to the Town of Bluff City storm drain system, except as exempted in § 14-635 of this chapter.

(21) "Illegal connection" means either of the following:

(a) Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether such pipe, open channel, drain or conveyance has been previously allowed, permitted, or approved by an authorized enforcement agency; or

(b) Any pipe, open channel, drain or conveyance from a commercial or industrial use connected to the Town of Bluff City storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

(22) "Impervious surface." A surface comprised of material(s) that prohibits or severely restricts the infiltration of stormwater into the underlying soil such as, but not limited to, asphalt, buildings, concrete, and brick. Compacted stone/gravel such as found in parking and drive areas is considered impervious.

(23) "Industrial activity" means activities subject to NPDES industrial permits.

(24) "Land disturbing activity" means any activity which may result in soil erosion from water or wind and the movement of sediments into drainage ways, or local waters, including, but not limited to, clearing, grading, excavating, transportation and filling of land, except that the term shall not include:

(a) Such minor land disturbing activities as home gardens and individual home landscaping, repairs and maintenance work.

(b) Construction, installation or maintenance of utility lines and individual service connections, or septic lines and drainage fields.

(c) Emergency work to protect life, limb or property.

(25) "Lake." An inland body of standing water, usually of considerable size.

(26) "National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit" means a permit issued by the State of Tennessee that authorizes the discharge of pollutants to water of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

(27) "Non-stormwater discharge" means any discharge to the storm drain system that is not composed entirely of stormwater.

(28) "Owner" or "property owner." The legal owner of the property as recorded with the Sullivan County Register of Deeds.

(29) "Person" means, except to the extent exempted from this chapter, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the state, any interstate body of any other legal entity.

(30) "Pollutant" means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; petroleum hydrocarbons; automotive fluids; cooking grease; detergents (biodegradable or otherwise); degreasers; cleaning chemicals; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that the same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; liquid and solid wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from construction a building or structure; concrete and cement; and noxious or offense matter of any kind.

(31) "Pollution" means the contamination or other alteration of any water's physical, chemical or biological properties by the addition of any constituent and includes but is not limited to, a change in temperature, taste, color, turbidity, or odor of such water, or the discharge of any liquid, gaseous, solid, radioactive, or other substance into any such waters as will or is likely to create a nuisance or render such water harmful, detrimental or injurious to the public health, safety, welfare, or environment, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

(32) "Pond." An inland body of standing water that is usually smaller than a lake.

(33) "Premises." means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

(34) "Redevelopment." The improvement of a lot(s) or parcel of land that is improved with existing structures. If the existing impervious areas including but not limited to buildings and parking remain as is, then the water quality portion of this ordinance only applies to the newly constructed structures and disturbed areas. If the existing impervious areas are removed and the soil underneath disturbed and then replaced with new impervious areas or newly graded areas then the water quality portion of this ordinance applies to the entire disturbed area. Areas or uses designated as "hotspots" that are redeveloped must provide water quality improvements for not only the new impervious and graded areas but also the existing impervious areas that remain.

(35) "Sediment." Solid material, either mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by erosion.

(36) "State waters" means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface and subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State of Tennessee which are not entirely confined and retained completely upon the property of a single person.

(37) "Stormwater coordinator" means the person, or their designee in their absence, designated by the board of mayor and aldermen to enforce the stormwater regulations.

(38) "Stormwater management facility." Term is used in a general sense to mean retention ponds, detention ponds, sedimentation basins, sediment traps, and any other structure that is constructed to reduce or control stormwater runoff and prevent silt and other pollutants from entering the town's waterways. When terms such as sediment basins and detention ponds are used in this ordinance, they are also intended to describe a variety of possible structures whose applications in certain circumstances helps control stormwater and waterway pollutants.

(39) "Stormwater runoff" or "stormwater" means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

(40) "Stormwater plan." For the purpose of this chapter; a stormwater plan refers to a formal written document and/or drawing addressing grading, stabilization using vegetation, stormwater conveyance, stormwater management, and erosion and sediment controls, that is reviewed by the stormwater coordinator with possible other technical assistance as deemed necessary, reviewed by the Town of Bluff City Planning Commission, and if approved by the planning commission is used as the basis for the stormwater

coordinator to issue a grading permit that allows land disturbing activity to proceed.

(41) "Stormwater Pollution Prevention Plan (SWPPP)." This is a combination of the erosion and sediment control plan and a narrative in accordance with the Tennessee Department of Environment and Conservation Standards.

(42) "Stream." For the specific purpose of vegetated buffers, a stream is defined as a linear surface water conveyance that can be characterized with either perennial or ephemeral base flow and is regulated by the town as a Special Flood Hazard Area (SFHA) or has been identified by the United States Army Corps of Engineers or the Tennessee Department of Environment and Conservation as a stream.

(43) "Structure." For the purpose of this ordinance, anything constructed or erected such that the use of it requires a more or less permanent location on or in the ground. Such construction includes, but is not limited to, objects such as buildings, houses, towers, overhead transmission lines, carports, garages, walls, parking areas, driveways, roads, and sidewalks.

(44) "Total Maximum Daily Load (TMDL)." a TMDL is a calculation of the maximum amount of a pollutant that a water body can receive and still meet water quality standards, and an allocation of that amount to the source(s) of the pollutant.

(45) "Town of Bluff City Storm Drain System" means any publicly owned or operated facility designed or used for collecting and/or conveying stormwater including, but not limited to, any roads and streets with drainage systems, curbs, gutters, inlets, catch basins, storm drains, structural and non-structural stormwater controls, stormwater management devices such as detention ponds, ditches, swales, natural and man-made or altered drainage channels, streams, creeks, rivers, reservoirs, and other drainage structures.

(46) "Transporting." Any moving of earth materials from one place to another, other than such movement incidental to grading, as authorized on an approved plan.

(47) "Vegetated buffer." A use-restricted vegetative area that is located along the perimeter of streams, ponds, or wetlands, containing natural vegetation and/or enhanced or restored vegetation.

(48) "Water course" means any structural or non-structural stormwater conveyance device including, but not limited to, storm drains, ditches, swales, channels, creeks, streams, rivers, and lakes.

(49) "Water quality BMP manual." A document which contains policies, design standards and criteria, technical specifications and guidelines, maintenance guidelines, and other supporting documentation to be used as the policies and technical guidance for implementation of the provisions of this ordinance. The manual to be used shall be the Town of Bluff City's manual, if developed, or if it has not been developed then the Northeast Tennessee Water Quality BMP Manual, latest edition, shall be used.

(50) "Water quality management facilities." Structural and non-structural features designed to prevent or reduce the discharge of pollution in stormwater runoff from a development or redevelopment.

(51) "Water quality management plan." An engineering plan for the design of water quality management facilities and best management practices within a proposed development or redevelopment. The water quality management plan includes a plan showing the extent of the land development activity, water quality management facilities, BMPs, vegetated buffers, water quality volume reduction areas, design calculations for water quality management facilities and BMPs, and may contain record drawings/certifications and covenants for maintenance of stormwater facilities and best management practices along with easements for the water quality management facilities, BMPs, vegetated buffers, water quality volume reduction areas.

(52) "Water quality volume reduction." A decrease in the water quality volume for one (1) or more areas of a proposed development which is obtained only for specific site development features or approaches that can reduce or eliminate the discharge of pollutants in stormwater runoff. Water quality volume reductions can only be obtained when specific guidelines presented in the water quality BMP manual are met.

(53) "Water quality volume reduction areas." Areas within the proposed development or redevelopment for which a water quality volume reduction can be obtained.

(54) "Wetland." An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetland determination shall be made by the United States Army Corps of Engineers, and/or the Tennessee Department of Environment and Conservation. (as added by Ord. #2003-001, May 2003, and replaced by Ord. #2008-001, Jan. 2008, and Ord. #2012-016, Oct. 2012)

**14-604. Regulated land disturbing activities.** (1) Except as provided in subsections (2) and (3) of this section, it shall be unlawful for any person to engage in any land disturbing activity on any commercial development, on any multi-family development, or any single-family development, construction, or renovation activity involving at least one (1) acre of land disturbance, construction activity that is part of a larger common development or sale that would disturb at least one (1) acre of land, or three (3) lots or more without submitting and obtaining approval of a stormwater plan as detailed in §§ 14-606 through 14-609 of this chapter, and being issued a grading permit by the stormwater coordinator.

(2) Any person who owns, occupies and operates private agriculture or forest lands shall not be deemed to be in violation of this ordinance of land

disturbing activities which result from the normal functioning of these lands, however, the stormwater coordinator has the authority to require "best practices" erosion and sedimentation control measures if pollution and runoff problems are evident.

(3) Any state or federal agency not under the regulatory authority of the Town of Bluff City for stormwater management and erosion and sediment control. (as added by Ord. #2003-001, May 2003, and replaced by Ord. #2008-001, Jan. 2008, and Ord. #2012-016, Oct. 2012)

**14-605. Permit required for any land disturbing activity.** Any land disturbing activity, as defined, shall require a grading permit, in addition to any building permit, which must be issued by the stormwater coordinator prior to the commencement of any work. Grading permits for regulated land disturbing activities as defined in § 14-604 will be issued by the stormwater coordinator only upon the developer meeting requirements outlined in §§ 14-606 through 14-609 of this chapter which includes obtaining approval of a stormwater plan by the Bluff City Planning Commission.

A grading permit is also required for any development or construction activity on less than one (1) acre of land. However, said development and construction activities do not require a formal stormwater plan unless they are commercial or multi-family developments or a stormwater plan is specifically requested by the planning commission. (as added by Ord. #2003-001, May 2003, and replaced by Ord. #2008-001, Jan. 2008, and Ord. #2012-016, Oct. 2012)

**14-606. Stormwater plan required.** A stormwater plan shall be required for all developments, subdivisions, or construction activities involving one (1) or more acres, of land disturbance, construction activity that is part of a larger common development or sale that would disturb at least one (1) acre of land, or three (3) lots or more, except as exempted in § 14-604 (2) and (3). A stormwater plan shall be required for all commercial construction or renovation, or any multi-family residential facility regardless of the acreage or number of units. If necessary to protect the health and safety of the people, the planning commission may, at its discretion, require a stormwater plan for any development or renovation under an acre, or single-family subdivision with less than three (3) lots. (as added by Ord. #2003-001, May 2003, and replaced by Ord. #2008-001, Jan. 2008, and Ord. #2012-016, Oct. 2012)

**14-607. Stormwater plan requirements.** The stormwater plan shall be prepared and designed by a registered design professional qualified to prepare stormwater plans in accordance with State of Tennessee law and in accordance with the current State of Tennessee Construction General Permit, where applicable. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and the potential for off-site damage. The plan shall include at least the following:

For projects which require a construction general permit through the State of Tennessee, the SWPPP (plan and narrative) shall be prepared by a person in accordance with the current State of Tennessee Construction General Permit and submitted to the town. The SWPPP shall contain all required information as required by the current State of Tennessee Construction General Permit. Be aware that the requirements for projects which drain into an impaired stream or exceptional waters of the state are different than for projects draining to an unimpaired stream.

(1) Project description. Briefly describe the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required.

(2) Contour intervals of five feet (5') or less showing present conditions and proposed contours resulting from land disturbing activity.

(3) All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or flood plans.

(4) A general description of existing land cover; individual trees and shrubs do not need to be identified.

(5) Limit of disturbance showing approximate limits of proposed clearing, grading and filling.

(6) Drainage area map showing pre and post development stormwater leaving any portion of the site.

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

(8) Location, size, details, and layout of proposed stormwater management improvements. Provide appropriate details such as a profile through the principal spillway with cut-off trench, anti-seep control, trash rack details, compaction/backfill details or notes, riser detail, outlet stabilization, and emergency spillway detail for detention ponds and other details/sections as needed for the contractor to build the structures.

Any opening in a riser structure and its overflow shall have a trash rack to prevent the openings, the riser, and/or the principal spillway from becoming clogged. The trash racks shall not be flat across the openings.

Provide hydraulic calculations sealed by a registered professional engineer for stormwater facilities. As a minimum, the calculations shall include a pre and post development drainage area map, brief narrative, pre and post development runoff data, and routing calculations to determine the outflow rate.

(9) Proposed closed and open drainage network.

(10) Proposed storm drain or waterway sizes.

(11) Location and amount of stormwater runoff leaving site after construction and stormwater management measures proposed. 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 and storm drains, if any, accepting stormwater off-site, and what measures including infiltration, sheeting into buffers, outfall setbacks, etc. are to be used to spread concentrated runoff and prevent the scouring of waterways and drainage areas off-site.

If the downstream storm drain or waterway is not of sufficient size to handle the post development runoff, or even the pre-development a review shall be undertaken to determine if any reasonable accommodation can be given in the stormwater plan to reducing the likelihood of problems downstream. The plan will be expected to address, to the extent reasonable, improvements that will reduce the release rate to no greater than the capacity of the downstream storm drains or waterways.

Outfall pipes from storm drain systems and stormwater management facilities shall be setback sufficiently from off-site properties to allow the concentrated water to spread out back to pre-development flow characteristics. Under no circumstances shall an outfall pipe, as measured from the end section, head wall, or pipe, if no end structures used, be any closer than ten feet (10') from the off-site property unless a drainage easement from the off-site property owner is obtained and recorded. The outfall setback shall be determined by the engineer and shall be based on outflow rate and the receiving channel or pipe characteristics.

Stormwater discharge from a concentrated point such as a pipe outfall shall discharge onto rip-rap or other velocity/energy dissipating method to reduce erosion potential. All rip-rap or other stone used to reduce velocity shall be placed on a geotextile to prevent scouring and the stone from sinking into the underlying soil.

The overflow path through the site and from any stormwater management device from stormwater runoff above the storm event, shall not impact any structure.

(12) The projected sequence of construction represented by the grading, drainage and erosion and sedimentation 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 stormwater facilities. The sequence of construction is a vital component of the drainage and sediment control plan and it explains to the contractor, and stormwater coordinator, when the drainage and sediment control devices are to be in place.

The sequence of construction shall state that no clearing or grading may begin until all perimeter sediment control devices are in place and functional.

(13) Specific remediation measures to prevent erosion and sedimentation runoff and to meet approved standards as outlined in § 14-608 of this chapter. Plans shall include detailed drawings of all control measures used; stabilization measures including vegetation and non-vegetative 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.

If a detention pond is to be used initially as a temporary sediment basin, then appropriate details and notes shall be provided showing how the pond will increase the residence time of the sediment laden water and when and how the sediment basin is to be converted to a permanent detention pond. Typically this conversion occurs once the upland drainage area to the pond has been stabilized. The sequence of construction shall include notes on when these activities are to take place.

The use of earth berms/dikes, swales, sediment traps, outlet structures, and sediment basins are strongly encouraged over the use of silt fence and straw bales for long term projects and where concentrated runoff is present.

All disturbed areas that will not be disturbed again within fourteen (14) days shall be temporary or permanently stabilized with seed, mulch, and/or other appropriate measures within fourteen (14) days of grading or clearing operations ceasing. It is very important that disturbed soil be stabilized as soon as possible to prevent sediment runoff. For slopes 3:1 or steeper, they must be temporarily or permanently stabilized within seven (7) days of grading ceasing on those slopes.

(14) A stone construction exit per the Tennessee Sediment Control Handbook shall be provided for all construction ingress/egress points for all construction projects including single lot construction. This is required in order to prevent mud, sediment, and debris on Bluff City streets and public ways at a level acceptable to the stormwater coordinator. Mud, sediment, and debris brought onto streets and public ways must be removed by the end of the day by machine, broom or shovel to the satisfaction of the stormwater coordinator. Failure to remove said sediment, mud or debris shall be deemed a violation of this ordinance.

It is the contractor's responsibility to prevent sediment from leaving the construction site and this includes sediment leaving the site by way of runoff flowing out the entrance or by vehicular tires carrying the sediment into the street. If there is runoff flowing down the construction exit to the street, a mountable stone berm or equivalent measures shall be used to direct the runoff to sediment control devices adjacent to the exit. The use of smaller stone or gravel other than shown in the Tennessee Sedimentation Control Handbook is not permitted.

(15) Proposed structures; location (to the extent possible) and identification of any proposed additional building, structures or development on the site.

(16) A description of on-site measures to be taken to recharge surface water in to the ground water system through infiltration, if appropriate for the site.

(17) The plan must have the seal of the design professional responsible for creating the plan. The stamped and signed plan, if approved, shall be copied and be the official plan that must be available in the field during construction.

(as added by Ord. #2003-001, May 2003, and replaced by Ord. #2008-001, Jan. 2008, and Ord. #2012-016, Oct. 2012)

**14-608. Plan must contain measures to meet approved standards.**

The stormwater plan shall contain measures that will ensure development, construction or site work will meet or exceed the following standards:

(1) The development fits within the topography and soil conditions in a manner that allows stormwater and erosion and sedimentation control measures to be implemented in a manner satisfactory to the Bluff City Planning Commission. Development shall be accomplished so as to minimize adverse effects upon the natural or existing topography and soil conditions and to minimize the potential for erosion.

(2) Plans for development and construction shall seek to minimize cut and fill operations. Construction and development plans calling for excessive cutting and filling shall be justified to the Bluff City Planning Commission.

(3) During development and construction, adequate protective measures shall be provided to minimize damage from surface water to the cut face of excavations or the sloping surfaces of fills. Fills shall not encroach upon natural water courses, their flood plains; or constructed channels in a manner so as to adversely affect other properties.

(4) Pre-construction vegetation ground cover shall not be removed, destroyed, or disturbed prior to obtaining a grading permit. Perimeter sediment controls shall be in place prior to the start of clearing or grading operations.

(5) Developers shall be responsible upon completion of land disturbing activities to leave slopes and developed or graded areas so that they will not erode. Such methods include, but are not limited to, re-vegetation, mulching, rip-rapping or gunniting, and retaining walls. Bank cuts and fills should preferably be 3 to 1 slopes or flatter; however, they shall not exceed a 2 to 1 slope without planning commission approval and must be permanently stabilized. Regardless of the method used, the objective is to leave the site as erosion and maintenance free as is practical.

(6) Provisions are implemented that accommodate any increased in stormwater runoff generated by the development in a manner in which the pre-development levels of runoff for the two (2) and ten (10) year storm events are not increased during and following development and construction. The board of mayor and aldermen reserves the right to require stormwater management to maintain pre-development levels of runoff for the 25-, 50-, 100-year storm event, when it is determined that it is in the best interest of the town to consider "partnering" with the developer to further reduce stormwater flows onto adjoining properties or if a known flooding problem exists downstream.

Any stormwater detention or retention pond shall also be designed to pass the 100-year storm (peak attenuation to the 100-year pre-development rate is not required) through the pond without over topping any portion of the dam. This can be accomplished through the principal spillway shall be installed on

virgin soil and is not placed on fill material or the dam. If it is not feasible to place the emergency spillway on virgin soil then the principal spillway shall be designed for the 100-year storm.

To the extent necessary, sediment in runoff water must be trapped by the use of sediment basins, silt traps or other sediment control measures until the disturbed area is stabilized. Structural controls shall be designed and maintained as required to prevent pollution. The town strongly encourages the use of sediment traps/basins and earth berms/dikes for sediment control measures. Silt fence may be used but should not always be the first or only device considered.

All off site surface water flowing toward the construction or development area shall, to the extent possible, be diverted around the disturbed area by using berms, channels, or other measures as necessary. Limiting the amount of runoff, especially concentrated runoff, from flowing through the construction site can be extremely helpful in preventing or significantly reducing sediment runoff. Under no circumstances, unless a drainage easement is obtained, may be diverted off site runoff be redirected onto off site properties or be diverted onto an off-site property's existing drainage way in a manner that would cause harm to the property.

(7) All grading, vegetation, drainage, stormwater, erosion and sedimentation control mitigation measures shall conform to any or all best management practices approved and revised from time to time by the board of mayor and aldermen and meet the requirements of the current State of Tennessee's Erosion and Sediment Control Handbook.

(8) All perimeter sediment control devices such as earth berms/dikes, swales, sediment basins, sediment traps, and other perimeter drainage and sedimentation control measures shall be installed in conjunction with initial work and must be in place and functional prior to the initial grading operations. These measures must be maintained throughout the development process. Sediment basins and/or sediment traps may be temporary, but shall not be removed without the approval of the stormwater coordinator.

(9) A minimum twenty-five foot (25') undisturbed buffer shall be provided from the top of bank along both sides of streams except as necessary for the installation of utilities, development of roads, or construction of outfalls for stormwater facilities and related drainage improvements and for removal of invasive species to enhance the existing buffer. These utility, road, and stormwater outfall disturbances shall be designed to minimize disturbance and impact on the stream and its buffers. Any disturbance to streams or wetlands require an Aquatic Resource Alteration Permit through the State of Tennessee. During construction, a thirty feet (30') average (fifteen feet (15') minimum) undisturbed buffer or equivalent measures, shall be provided from the top of the stream bank. If the stream is a siltation or stream side habitat impaired or exceptional water of the state, the undisturbed buffer during construction is

increased to a sixty foot (60') average (thirty feet (30') minimum) or equivalent measures.

(10) Soil and other materials shall not be temporarily or permanently stored in locations which would cause suffocation of root systems of trees intended to be preserved. Stockpiled soils shall have silt fencing or other sedimentation control measures surrounding, and shall be located away from street, curbs and drainage ways to prevent sediment from getting into local waters or streets and public ways.

(11) Land shall be developed to the extent possible in increments of workable size, which can be completed in a single construction season, spring to fall. Erosion and sediment control measures shall be coordinated with the sequence of construction, development and construction operations. Control measures such as berms, interceptor ditches, terraces, and sediment and silt traps shall be put into effect prior to any next stage of development.

(12) The permanent vegetation shall be installed on areas of the construction site that are outside of the building area, pad or footprint, as soon as utilities are in place and final grades are achieved. Without prior approval of an alternate plan by the Bluff City Planning Commission, permanent or temporary soil stabilization must be applied to disturbed areas outside of the building pad or footprint within fourteen (14) days from substantial completion of grading, or where these disturbed areas outside the building site will remain unfinished for more than fourteen (14) calendar days. The building area should be stabilized with a concrete pad or the footprint covered with gravel.

(13) Stormwater management facilities and drainage structures shall, where possible, use natural topography and natural vegetation. In lieu thereof, these structures shall have planted trees and vegetation such as shrubs and permanent ground cover on their borders, except no woody vegetation such as trees and shrubs shall be planted on dam areas or within twenty-five feet (25') of the dam. Plant varieties shall be those sustainable in a drainage way environment or as may be outlined in best management practices.

(14) In many situations stormwater management facilities and drainage structures need to be fenced in order to protect public safety. The Bluff City Planning Commission may require fencing for any basin or structure. When fencing is required, the following specifications apply:

(a) Height: minimum of forty-two inches (42").

(b) For residential areas and high visibility commercial areas, the fencing shall be split rail with black or green vinyl coated wire attached, or some other type of attractive fencing but shall not be chain link fencing.

For commercial and industrial uses, the fencing may be chain link up to six feet (6') tall. Under no circumstances may barbed wire be used.

(c) A lockable access gate of a minimum width of twelve feet (12') must be provided to allow access by equipment and machinery as needed for maintenance.

(d) An adequate access road to the gate sufficient for maintenance vehicles and equipment.

The Bluff City Planning Commission may consider and approve other fencing alternatives provided that the alternatives presented meet minimum safety and security objectives.

(15) Stormwater plans must meet minimum requirements established in by the State of Tennessee's Construction General Permit, where applicable, and in their Erosion and Sediment Control Handbook. If there is a conflict between these regulations and the State of Tennessee's regulation, the most stringent regulation shall apply.

All erosion and sediment control devices shall be designed for the two (2) year, twenty-four (24) hour storm as a minimum. For drainage area of ten (10) acres or more to a single outfall point, a sediment basin(s) or equivalent measures shall be used and designed for the two (2) year, twenty-four (24) hour storm.

For projects which drain into an impaired or exceptional state water, the erosion and sediment control devices shall be designed for the five (5) year, twenty-four (24) hour storm and a sediment basin or equivalent measures shall be used for drainage areas of five (5) acres or more to a single outfall point.

(16) For projects that are not exempt, provide permanent water quality stormwater management in accordance with § 14-634.

The Town of Bluff City wishes to minimize the negative effects of development on our environment, on our economy, and on our health while at the same time reducing development costs for the developers and maintenance costs for the town and the developer. All efforts should be utilized to implement site design and non-structural stormwater management practices to reduce and minimize runoff in new development. Efforts to enhance infiltration, passage or movement of water into the soil surface, reduction of hard surfaces, minimizing the concentration of runoff, and lengthening of the time of concentration should be a priority.

The following BMPs and stormwater credits can be applied to the peak and water quality stormwater calculations thereby reducing the size and cost of the stormwater BMPs:

(a) Natural area conservation. The preservation of forest, wetlands, pasture land, and other sensitive areas of existing vegetation thereby retaining pre-development hydrologic and water quality characteristics. If these areas are undisturbed and placed in a recorded protective easement, these areas may be subtracted from the total site area when calculating water quality volume. The post development curve numbers for these areas can be modeled as forest in good condition.

(b) Disconnection of rooftop runoff. Rooftop runoff that is disconnected from another impervious surface and directed over a pervious area will infiltrate into the soil or be filtered by the surface material. The longer the flow path of the water from the pipe across

vegetated areas, the greater the filtering and infiltration of the runoff which in turn improves water quality and reduces downstream runoff.

If the lot is graded to disperse the rooftop runoff as sheet flow through at least fifty feet (50') of thick grass or other thick vegetation or through at least twenty-five feet (25') of existing woodlands, fifty percent (50%) of the rooftop impervious area draining through the vegetation may be modeled as grass in good condition when calculating the post development curve number. If reforestation or planted landscape beds equal in area to fifty percent (50%) of the rooftop area is placed in the path of the disconnected rooftop runoff, then the remaining fifty percent (50%) of the rooftop impervious area may be modeled as grass in good condition when calculating the post development curve number.

If the rooftop runoff is discharged into a properly designed and constructed bioretention facility/rain garden onsite, one hundred percent (100%) of the rooftop impervious area draining to the device may be modeled as grass in good condition when calculating the post development curve number.

In addition, under both conditions listed above, the total impervious area in the water quality calculations may be reduced relative to the impervious area reduction associated with the curve number credit.

If downspouts need to be piped away from building foundations to prevent damage to the foundations, the pipes must outfall at least ten feet (10'), preferable further, from any property line. If the downspouts are piped and the runoff cannot disperse in accordance with the above requirements, no stormwater credit is available.

(c) Disconnection of non-rooftop impervious runoff. Rooftop runoff that is disconnected from another impervious surface and directed over a pervious area will infiltrate into the soil or be filtered by the surface material. The longer the flow path of the water across vegetated areas, the greater the filtering and infiltration of the runoff which in turn improves water quality and reduces downstream runoff.

Discharging runoff from impervious surfaces onto pervious surfaces through the use of pervious pavers, permeable paving surfaces, rain gardens/bioretention facilities, grassed swales, use of open road sections in lieu of curbed roads, and by grading the site so that runoff travels from an impervious surface to a pervious surface before being collected in a drainage system. All of these increase filtering and infiltration of stormwater before the flows become concentrated and this in turn improves water quality and reduces downstream runoff which means pipes, swales, ditches, and stormwater facilities can be smaller.

Avoid sending runoff from one (1) impervious surface directly onto another impervious surface. Place pervious surfaces between impervious surfaces along the runoff path.

If the site is graded to disperse the impervious runoff as sheet flow through at least fifty feet (50') of thick grass or other thick vegetation or through at least twenty-five feet (25') of existing woodlands, fifty percent (50%) of the impervious area draining through the vegetation may be modeled as grass in good condition when calculating the post development curve number. If the impervious runoff is discharged into a properly designed and constructed bioretention facility/rain garden onsite, one hundred percent (100%) of the impervious area draining to the device may be modeled as grass in good condition when calculating the post development curve number.

(d) Sheet flow. Maintain sheet flow for as long as possible before the runoff has to be collected in a stormwater conveyance system. Sheet flow increases infiltration and lengthens the time of concentration which in turn improves water quality and reduces runoff downstream. Spread out concentrated flows created by the development before they are discharged offsite using stilling basins, level spreaders, directing runoff through woodlands, or other means so the runoff returns to pre-development characteristics to meet the adequacy of outfall provision of this ordinance and to improve water quality and reduce runoff downstream.

(e) Grass channels in lieu of piping or hard surface channels.

(f) Environmentally sensitive development. Maintaining/not disturbing environmentally sensitive areas such as streams, stream buffers, existing woodlands, existing steep slopes, wetlands, etc., the reduction of cut and fill, excavating, etc. and the appropriate balance of buildings and parking on the development site.

(g) Improvements to and the reduction in the impervious areas on the development site. Design parking lots with the minimum amount of hard surface required to meet the zoning regulations. If additional parking area is desired, the town strongly encourages the employee and/or overflow parking areas to be constructed in a more pervious material than asphalt or concrete. If the parking regulations require excessive parking for your type of development, discuss the issue with the town staff. If the town staff feels a reduction in the number of required parking spaces is justified, a variance can be submitted to the board of zoning appeals to reduce the parking requirements which in turn will reduce the amount of impervious surface installed.

(h) Increased use of trees, shrubs and ground cover, which absorb up to fourteen (14) times more rainwater than grass and require less maintenance.

(17) Neighboring persons and property shall be protected from damage or loss resulting from an increase in stormwater runoff above the pre-development rate, soil erosion, or the deposit upon private property, public streets or right-of-ways of silt and debris transported by water from



construction, excavating, grading, etc. associated with a development. (as added by Ord. #2003-001, May 2003, and replaced by Ord. #2008-001, Jan. 2008, and Ord. #2012-016, Oct. 2012)

**14-609. Permit application.** In addition to the stormwater plan, applications for a grading permit involving land disturbing activities must include the following:

- (1) Name of applicant;
- (2) Business or residence address of applicant;
- (3) Name and address of owner(s) of property involved in activity;
- (4) Address and legal description of property, and names of adjoining property owners;
- (5) Name, address and state license number of contractor, if different from applicant, and to the extent possible any subcontractor(s) who shall undertake the land disturbing activity and who shall implement the stormwater plan;
- (6) A brief description of the nature, extent, and purpose of the land disturbing activity;
- (7) Proposed schedule for starting and completing project. (as added by Ord. #2003-001, May 2003, and replaced by Ord. #2008-001, Jan. 2008, and Ord. #2012-016, Oct. 2012)

**14-610. Plan development at developer's expense.** Unless approved by the board of mayor and aldermen, all stormwater plans shall be developed and presented at the expense of the owner/developer. (as added by Ord. #2003-001, May 2003, and replaced by Ord. #2008-001, Jan. 2008, and Ord. #2012-016, Oct. 2012)

**14-611. Plan submitted to stormwater coordinator.** Three (3) copies of the stormwater plan shall be submitted directly to the town who will direct a copy to the stormwater coordinator, and may provide copies to others for review. Any insufficiencies and violations determined by the stormwater coordinator and others shall be noted and comments will be directed back to the applicant/developer. The plan will then be revised as required prior to being presented to the Bluff City Planning Commission. (as added by Ord. #2003-001, May 2003, and replaced by Ord. #2008-001, Jan. 2008, and Ord. #2012-016, Oct. 2012)

**14-612. Plan submitted in number satisfactory to planning commission.** The Bluff City Planning Commission shall determine the number of copies of the stormwater plan that must be provided to the commission by the owner/developer. (as added by Ord. #2003-001, May 2003, and replaced by Ord. #2008-001, Jan. 2008, and Ord. #2012-016, Oct. 2012)

**14-613 Plan review.** The Bluff City Planning Commission shall review stormwater plans as quickly as possible while still allowing for a thorough evaluation of the problems and mitigation measures identified and addressed. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

**14-614. Grading permit and security.** Following approval of the stormwater plan by the planning commission, a grading permit shall be obtained from the stormwater coordinator. The grading permit shall become null and void one hundred eighty (180) calendar days from the date of issuance unless land disturbing activities have commenced, or land disturbing activities are not complete within eighteen (18) months from date of commencement of land disturbing activities.

The stormwater coordinator may, at his/her discretion, require a performance security or bond prior to the issuance of a grading permit to ensure that the stormwater practices are installed properly by the permittee as required by the approved stormwater plan. The amount of the security or bond shall be the total estimated construction cost of the stormwater BMPs including stabilization plus any reasonably foreseeable additional related costs, e.g., for damages and enforcement. The applicant shall provide an itemized construction cost estimate complete with unit prices which shall be subject to acceptance, amendment, or rejection by the stormwater coordinator. Alternatively, the stormwater coordinator shall have the right to calculate the estimate of construction costs.

The security or bond shall be made out to the Town of Bluff City with language acceptable to the town attorney. Upon the posting of the bond, the developer must sign and have notarized an approved certification granting permission for any stormwater plan activities to be made on the property in case of default. If after eight (8) months from the start of construction it appears that the stormwater plan activities approved by the Bluff City Planning Commission will not be implemented within a twelve (12) month period, the stormwater coordinator, in conjunction with the town attorney, at his or her discretion after a notice of non-compliance has been properly issued as outlined in § 14-628 of this chapter and the developer has failed to comply, may cash said security or bond to complete all of the improvements approved or any portion of the stormwater plan activities it deems necessary to protect the health and safety of residents and to protect the quality of local waters.

The security or bond shall only be released by the stormwater coordinator following completion of construction and acceptance of the grading, vegetation, drainage, stormwater management, and erosion and sedimentation control measures. A registered design professional shall provide written certification that the structural BMPs are installed correctly per the approved stormwater plan or that they were installed differently than the approved stormwater plan but that they are still working properly and meet all applicable regulations. The

stormwater coordinator shall make a final inspection of the site to ensure compliance with the approved stormwater plan, provisions of this ordinance, and/or the design professional's certification. Provisions for a partial pro-rata release of the security or bond based on completion of various development stages can be made at the discretion of the stormwater coordinator. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

**14-615. Stormwater coordinator may require additional protective measures.** The stormwater coordinator has the authority at their discretion to require ground cover or other remediation measures preventing stormwater, erosion and sediment runoff, if either determines after construction begins that the plan and/or implementation schedule approved by the planning commission does not adequately provide the protection intended in the ordinance and in the approval issued by the commission. Additional protective measures required by the stormwater coordinator that fall under the authority of the planning commission are subject to appeal under the procedures outlined in § 14-631 of this chapter. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

**14-616. Certification of design professional.** The registered design professional responsible for developing the stormwater plan may be required to provide written certification to the extent possible that the stormwater management facility approved by the planning commission have been implemented satisfactorily and are in compliance with the approved plan. The Town of Bluff City through the stormwater coordinator will ultimately have final approval authority through the issuance of certificate of occupancy as designated in § 14-629. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

**14-617. Stormwater management facilities and drainage structures maintained.** All on-site stormwater management and drainage structures shall be properly maintained by the owner/developer during all phases of construction and development so that they do not become a nuisance. Nuisance conditions shall include: improper storage resulting in uncontrolled runoff and overflow; stagnant water with concomitant algae growth, insect breeding, and odors; discarded debris; and safety hazards created by the facilities operation. When problems occur during any phase of construction and development, it is the responsibility of the developer to make the necessary corrections. Corrective actions will be monitored and inspected by the stormwater coordinator.

The board of mayor and aldermen may accept ownership of stormwater management facilities in behalf of the town under the terms set forth in § 14-619 of this chapter, however, unless the town accepts ownership the

developer, or a legal entity acceptable to the planning commission, shall have on-going responsibility to see that the stormwater management facility is properly maintained and operational. The developer shall provide the necessary permanent easements to provide town personnel access to the stormwater management facilities and drainage structures for periodic inspection. A right-of-way to conduct such inspections shall be expressly reserved in the permit. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

**14-618. Improperly maintained stormwater management facilities and drainage structures a violation.** The stormwater coordinator shall periodically monitor and inspect the care, maintenance and operation of stormwater management facilities and drainage structures during and after construction and development. Facilities found to be a nuisance, as defined in § 14-618, are in violation of the ordinance are subject to fines of up to five thousand dollars (\$5,000.00) per day for each day of violation<sup>1</sup> with each additional day considered a separate violation. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

**14-619. Town may take ownership of stormwater management facilities and drainage structures.** The Bluff City Planning Commission shall have the authority to recommend to the board of mayor and aldermen that the town take ownership of stormwater management facilities and drainage structures provided that the board and commission feel the public interest is best served by the town providing on-going responsibility for maintenance and up-keep. The board of mayor and aldermen will consider the recommendations of the planning commission on a case-by-case basis. In such cases, approval of the transfer of ownership shall only occur after the board of mayor and aldermen has received an inspection report from the stormwater coordinator, with the possible technical assistance of others, that certifies to the extent possible said devices have been properly constructed and landscaped, are operating effectively, and appropriate safety and protective measures have been implemented or constructed. The design professional for the project shall also certify that the stormwater management/drainage facility meets the standards outlined in best management practices. Transfer of ownership to the town shall occur at or near the completion of the subdivision or development and the developer must provide fee simple title to the property on which the stormwater management or drainage structure is located and/or any necessary easements allowing the Town of Bluff City to get access to the facilities for routine

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<sup>1</sup>State law ordinance

Tennessee Code Annotated, § 68-621-1101.

maintenance and care. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

**14-620. Technical assistance.** The town staff and/or consultants for the town are available for consultation and advice concerning stormwater management and erosion and sedimentation problems to all persons planning to develop land within the town or under the subdivision jurisdiction of the Bluff City Planning Commission. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

**14-621. Stormwater coordinator responsible for providing safeguards in projects less than one acre or utilizing less than three (3) lots.** Projects undertaken within the city limits of Bluff City that are not subject to review and approval of the Bluff City Planning Commission shall fall under the responsibility of the enforcement officers to see that the measures required in this chapter to protect the health and safety of the people and to protect the quality of surface water are carried out as needed. The stormwater coordinator shall require reasonable drainage and erosion and sedimentation control measures as part of the grading permit process outlined in § 14-622. Under no conditions shall the developer/contractor of a property allow silt or sedimentation to enter drainage ways or adjoining properties, or allow stormwater flows to adversely impact adjoining properties. Denuded areas, cuts, and slopes in areas outside the building site shall be properly covered within the same schedule as directed in § 14-608(14) of this chapter. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

**14-622. Grading permit also required for any project on less than one acre involving grading, filling, or excavating.** A grading permit is also required for any development or construction activity on property one (1) acre or less except for the normal functioning and operation of private agriculture and forest lands; any state or federal agency not under the regulatory authority of the Town of Bluff City for stormwater management, sedimentation and erosion control; and minor land disturbing activities such as home gardens, individual home landscaping, repairs and maintenance. However, said development and construction activities do not require a formal stormwater plan unless specifically requested by the planning commission. The stormwater coordinator shall require that all grading, vegetation, drainage, stormwater, erosion and sedimentation control measures necessary shall be implemented, shall conform to any and all best management practices, and shall meet the objectives established in this ordinance. Developers must also present to the stormwater coordinator a description of the measures that will be taken to address the requirements established in §§ 14-607 and 14-608 of this chapter. These measures must be addressed prior to the stormwater coordinator issuing

a grading permit. Measures preventing excess runoff and erosion must be in place prior to the commencement of grading and/or excavation. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

**14-623. Existing developed properties with drainage, erosion and sediment concerns.** Properties of any size within the city limits of the Town of Bluff City that have been developed or in which land disturbing activities have previously been undertaken, are subject to the following requirements:

(1) Denuded areas still existing as of the second and final reading of this ordinance must be vegetated or covered under the standards and guidelines specified in the best management practices adopted by the board of mayor and aldermen, and on a schedule acceptable to the stormwater coordinator.

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

(3) Drainage ways shall be properly covered in vegetation or secured with stones, etc. to prevent erosion.

(4) Junk, rubbish, etc. shall be cleared of drainage ways to prevent possible contaminate and pollution.

(5) Stormwater runoff in commercial areas, office or medical facilities, and multi-family residences of three (3) or more units shall be controlled to the extent reasonable to prevent pollution of local waters. Such control measures may include, but not be limited to, the following:

(a) Oil skimmer/grit collector structure or other water quality device. These structures are designed to skim off floatables out of parking lots and other impervious surfaces, and allow solids of debris and sediment to settle before being discharged in a local waterway.

(b) Stormwater management facilities.

(c) Planting and/or sowing of vegetation and other nonstructural measures.

(d) Rip-rapping, mulching, and other similar erosion control measures associated with local drainage ways. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

**14-624. Improvements needed at existing locations/developments determined by the stormwater coordinator.** Improvements needed to provide drainage and sediment control in existing and completed developments shall be determined by the stormwater coordinator. The stormwater coordinator shall evaluate existing developments, parking areas, site work, and drainage ways to determine if additional measures to protect health and safety and water quality are needed. Recommendations shall be:

(1) Provided in writing to the property/business owner.

(2) Detailed as to specific actions required and why these actions are necessary.

(3) Made with a reasonable period of time for implementation. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

**14-625. Improvements required in existing developments normally at owner's expense.** Stormwater control measures required in existing developed properties shall normally be undertaken at the property or business owner's expense. Unless, determined otherwise by the board of mayor and aldermen, drainage and sedimentation control measures implemented shall be properly maintained by the property or business owner. The board of mayor and aldermen, however, at its discretion in circumstances in which board members feel the town's participation is essential to protecting the health and safety of residents and the water quality of Bluff City's drainage ways, may approve cost-sharing or total financial responsibility for needed drainage and sedimentation control measures. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

**14-626. Town may take responsibility for existing stormwater management facilities and drainage structures.** The Bluff City Planning Commission may recommend that the board of mayor and aldermen take responsibility for existing stormwater management facilities and drainage structures if the commission determines that the general public is better served when said facilities are under the long-term maintenance responsibility of the town. The board of mayor and aldermen will consider these recommendations on a case-by-case basis. Facilities considered shall be accepted as outlined in § 14-619 of this chapter. The Bluff City Planning Commission may also recommend to the board of mayor and aldermen that the town participate in making certain improvements to existing facilities in addition to accepting responsibility for their long-term maintenance and care if the commission feels said improvements are in the best interest of the general public. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

**14-627. Improvements required with existing developments subject to appeal.** Improvements required by the stormwater coordinator as outlined in §§ 14-624 and 14-625 of this chapter are subject to appeal by the property/business owners to the Bluff City Planning Commission as specified in § 14-631. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

**14-628. Monitoring, reports, and inspections.** The stormwater coordinator, with the possible assistance of others, shall make periodic inspections, during construction and development, of the land disturbing activities, the stormwater management system installations, and other activities requiring a grading permit to ensure compliance with the approved plan and Bluff City's Best Management Practices. For construction sites draining to siltation impaired streams or exceptional waters of the state, the town shall perform monthly inspections. Inspections will evaluate whether the measures required in the stormwater plan and/or grading permit and undertaken by the developer are effective in controlling erosion. The right of entry to conduct such inspections shall be expressly reserved in the permit.

As a minimum, the owner/operator of any construction project which requires a stormwater plan is required to perform twice weekly inspections of their erosion and sediment control devices and to perform required maintenance in a timely manner. If the construction project requires a construction stormwater permit through the State of Tennessee, the owner/operator shall perform inspections, site assignments, maintenance of devices, and documentation in accordance with the State of Tennessee's current construction general permit.

For drainage areas of ten (10) acres or more to a single outfall (five (5) acres or more if draining to siltation or stream-side habitat alteration impaired or exceptional waters of the state), a site assessment by the design professional who prepared the plans shall be performed within one (1) month of grading or clearing operations starting to verify the installation, functionality and performance of all erosion and sediment control measures on the plans and in the SWPPP. Any issues shall be addressed immediately and the plans and SWPPP updated, if applicable. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

**14-629. Certificate of occupancy not issued until approvals.** The Town of Bluff City will not issue a certificate of occupancy necessary to occupy any commercial or residential establishment until all aspects of the stormwater plan including stormwater management facilities have been completed, control devices constructed have been approved and accepted, and, if within a subdivision or commercial development, all paving, landscaping of public ways, and utilities, including street lighting if decorative lights are used, are approved and accepted. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

**14-630. Plan construction acceptance and security release.** Stormwater plan activities must be inspected and accepted by the stormwater coordinator before final plat approval and/or security release. If within a commercial development or subdivision, streets, sidewalks, curbs and alleys, landscaping, street lighting, storm drain, stormwater management, water,



sewer, and any installation of electric, telephone, cable, and gas utilities must be approved and accepted by the appropriate official before final plat approval and/or security release. (as added by Ord. #2003-001, May 2003, deleted by Ord. #2008-001, Jan. 2008, and replaced by Ord. #2012-016, Oct. 2012)

**14-631. Appeal of administrative action.** Any person aggrieved by the imposition of a penalty, damage assessment, or the decisions of the stormwater coordinator or any enforcement officer may appeal said penalty, damage assessment, or other decisions to the town's governing body.

The appeal shall be filed in writing with the town recorder or clerk within fifteen (15) days from the date the penalty or damage assessment was served in any manner authorized by law or the decision was rendered.

Upon receipt of an appeal, the town's governing body shall hold a public hearing within thirty (30) days. At least ten (10) days prior to the hearing, the notice of the time, date, and location of said hearing shall be both published in a daily newspaper of general circulation and the aggrieved party shall be notified by registered mail to the address provided with the appeal request. The decision of the governing body shall be final.

Any alleged violator may appeal a decision of the town's governing body pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8. (as added by Ord. #2012-016, Oct. 2012)

**14-632. Town clean-up resulting from violations at developer's/owner's expense.** Town staff is authorized at any time during construction and development to take remedial actions to prevent, clean-up, repair or otherwise correct situations in which water, sediment rock, vegetation, etc. ends up on public streets and/or rights-of-way resulting from violation of this ordinance; where necessary drainage erosion and sedimentation control measures have not been properly implemented. In such cases, the cost of labor, equipment, and materials used will be charged to the developer/owner in addition to a service charge of one hundred dollars (\$100.00) per hour. The town will invoice the developer/owner directly, and payment shall be received within fourteen (14) days. Failure to pay for remedial actions taken by the town under this section may result in the town attorney filing a lien against the property involved in the action, and may negate any intention by the town to accept responsibility for any drainage and sediment control facilities. The decision of the town to take remedial actions to protect the health and safety of the public in no way supplants or negates the authority of the appropriate town staff to issue citations for violations of this ordinance. (as added by Ord. #2012-016, Oct. 2012)

**14-633. Illicit discharge and illegal dumping during construction.**

(1) The owner/operator if the site or project must design, install, implement, and maintain effective pollution prevention measures to minimize

the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented and maintained to:

(a) Minimize the discharge of pollutants from equipment and vehicle washing, wheel washwater, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;

(b) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater; and

(c) Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.

(2) The following discharges are prohibited from construction sites:

(a) Wastewater from washout of concrete, unless managed by an appropriate control.

(b) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials.

(c) Fuels, oils, or other pollutants used in vehicles and equipment operation and maintenance.

(d) Soaps or solvents used in vehicle and equipment washing.  
(as added by Ord. #2012-016, Oct. 2012)

**14-634. Permanent water quality stormwater management requirements.** (1) General requirements. (a) Owners of land development activities not exempted under subsection (3) of this section must submit a water quality management plan. The water quality management plan shall be submitted as part of the site development plans as required by the town zoning ordinance, subdivision regulations, and other standards for development plans.

(b) The water quality BMP manual to be used shall be the Town of Bluff City's manual, if developed, or if it has not been developed then the Northeast Tennessee Water Quality BMP Manual, latest edition, shall be used.

(c) The water quality management plan shall include the specific required elements that are listed and/or described in the water quality BMP manual. The stormwater coordinator may require submittal of additional information in the water quality management plan as necessary to allow an adequate review of the existing or proposed site conditions.

(d) The water quality management plan shall be subject to any additional requirements set forth in the minimum subdivision regulations, zoning ordinance, or other town ordinances and regulations

including peak stormwater management and erosion and sediment control.

(e) Water quality management plans shall be prepared and stamped by a design professional qualified to prepare stormwater and site plans in accordance with State of Tennessee law.

(f) Other state and/or federal permits that may be necessary for construction in and around streams and/or wetlands shall be approved prior to approval of a water quality management plan by the town.

(g) The approved water quality management plan shall be adhered to during grading and construction activities. Under no circumstance is the owner or operator of land development activities allowed to deviate from the approved water quality management plan without prior approval of a plan amendment by the stormwater coordinator.

(h) The approved water quality management plan shall be amended if the proposed site conditions change after plan approval is obtained, or if it is determined by the stormwater coordinator during the course of grading or construction that the approved plan is inadequate.

(i) The water quality management plan shall include a listing of any known legally protected state or federally listed threatened or endangered species and/or critical habitat located in the area of land disturbing activities and a description of the measures that will be used to protect them during and after grading and construction.

(j) Water quality management facilities, BMPs, vegetated buffers and water quality volume reduction areas shown in water quality management plans shall be maintained through covenants for maintenance of stormwater facilities and best management practices or other legal means as determined by the stormwater coordinator. The other means must be legally enforceable to ensure ownership, maintenance responsibility, and inspection requirements are provided for in perpetuity. The covenants, or other legal means, must be approved by and shall be enforceable by the town. The covenants shall be recorded with the Register of Deeds at the Sullivan County Courthouse and shall run with the land and continue in perpetuity.

(k) Water quality management facilities, BMPs, vegetated buffers and water quality volume reduction areas show in water quality management plans shall be placed into a permanent stormwater facilities and best management practices easement held by the town that is recorded with the Register of Deeds at the Sullivan County Courthouse.

(l) A maintenance right-of-way or easement, having a minimum width of fifteen feet (15') shall be provided to all water quality management facilities, BMPs, vegetated buffers and water quality volume reduction areas from a driveway, public road or private road.

(m) Owners of land development activities not exempted from submitting a water quality management plan may be subject to additional watershed or site-specific requirements than those stated in this ordinance in order to satisfy other local, state, and federal water quality requirements. Areas subject to additional requirements may also include developments, redevelopments, or land uses that are considered pollutant hotspots or areas where the stormwater coordinator has determined that additional restrictions are needed to limit adverse impacts of the proposed development on water quality or channel protection.

(n) The stormwater coordinator may waive or modify any of the requirements of § 14-634(2) of this ordinance if adequate water quality treatment and channel protection are suitably provided by a downstream or shared off-site water quality management facility, or if engineering studies determine that installing the required water quality management facilities or BMPs would actually cause adverse impact to water quality or cause increased channel erosion or downstream flooding.

(o) This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, deed restrictions, or existing ordinances and regulations. If provisions of this ordinance and another regulation conflict, that provision which is more restrictive or imposes higher standards or requirements shall control.

(2) Design criteria. (a) All owners of developments or redevelopments who must submit a water quality management plan shall provide treatment of stormwater runoff in accordance with the following requirements:

(i) The stormwater runoff from the site must be treated for water quality prior to discharge from the site in accordance with the stormwater treatment standards and criteria provided in the water quality BMP manual and as found in the peak stormwater management and erosion and sediment control regulations.

(ii) The treatment of stormwater runoff shall be achieved through the use of one (1) or more water quality management facilities and/or BMPs that are designated and constructed in accordance with the water quality BMP manual or other BMPs as approved by the stormwater coordinator.

(iii) Methods, designs or technologies for water quality management facilities or BMPs that are not provided in the water quality BMP manual may be submitted for approval by the stormwater coordinator if it is proven that such methods, designs or technologies will meet or exceed the stormwater treatment standards set forth in the water quality BMP manual and this ordinance.

(iv) BMPs shall not be installed within public rights-of-way or on public property without prior approval of the stormwater coordinator.

(b) All owners of developments or redevelopments who are required to submit a water quality management plan shall provide downstream channel erosion protection in accordance with design criteria stated in the water quality BMP manual. Downstream channel erosion protection can be provided by an alternative approach in lieu of controlling the channel protection volume subject to prior approval by the stormwater coordinator. Sufficient hydrologic and hydraulic analysis that shows that the alternative approach will offer adequate channel protection from erosion must be provided.

(c) All owners of developments or redevelopments who require a grading permit, plan approval, or subdivision approval shall establish, protect, and maintain a vegetated buffer in accordance with the water quality BMP manual and these regulations along all streams, ponds, rivers, lakes, and wetlands. Exemptions from this requirement are as follows:

(i) Vegetated buffers are not required around the perimeter of ponds that have no known connection to streams, other ponds, lakes, rivers, or wetlands.

(ii) Vegetated buffers are not required around water quality management facilities, BMPs, or other detention ponds that are designed, constructed and maintained for the purposes of water quality and/or quantity control, unless expressly required by the design standards and criteria for the facility that are provided in the water quality BMP manual.

(d) In addition to the above requirements, all owners of developments or redevelopments who must submit a water quality management plan shall:

(i) Provide erosion prevention and sediment control in accordance with the ordinances and regulations of the town;

(ii) Control stormwater drainage onsite and provide peak stormwater management in accordance with the ordinances and regulations of the town; and

(iii) Adhere to all local floodplain development requirements in accordance with ordinances and regulations of the town.

(3) Exemptions. (a) Owners of developments and redevelopments who conform to the criteria in subsection (3)(c) are exempt from the requirements of this ordinance, unless the stormwater coordinator has determined that treatment of stormwater runoff for water quality is needed to order to satisfy local or state NPDES, TMDL or other regulatory water quality requirements, or the proposed development will

be a pollutant hotspot, or to limit adverse water quality or channel protection impacts of the proposed development.

(b) The exemptions listed in subsection (3) shall not be construed as exempting the owners of developments and redevelopments from compliance with stormwater requirements stated in the minimum subdivision regulations, zoning ordinance, or other town ordinances and regulations including peak stormwater management and erosion prevention and sediment control.

(c) The following developments and redevelopments are exempt from the requirements for a quality management plan:

(i) Developments or redevelopments that disturb less than one (1) acre of land. No exemption is granted if the development or redevelopment is part of a larger common plan of development or sale that would potentially disturb one (1) acre or more and the stormwater runoff from the development or redevelopment is not treated for water quality via a downstream or regional water quality management facility or BMP that meets the requirements of this ordinance;

(ii) Minor land disturbing activities such as residential or non-residential repairs, landscaping, or maintenance work;

(iii) Public utility service conditions, unless such activity is carried out in conjunction with the clearing, grading, excavating, transporting, or filling of a lot or lots for which a water quality management plan would otherwise be required;

(iv) Installation, maintenance, or repair of individual septic tank lines or drainage fields, unless such activity is carried out in conjunction with the clearing, grading, excavating, transporting, or filling of a lot or lots for which a water quality management plan would otherwise be required;

(v) Agricultural activities;

(vi) Emergency work to protect life, limb or property, and emergency repairs.

(4) Special pollution reduction requirements. (a) A special pollution reduction plan shall be required for the following land uses, which are considered pollutant hotspots:

(i) Vehicle, truck or equipment maintenance, fueling, washing or storage areas including but not limited to: automotive dealerships, automotive repair shops, and car wash facilities;

(ii) Recycling and/or salvage yard facilities;

(iii) Restaurants, grocery stores, and other food service facilities;

(iv) Commercial facilities with outside animal housing areas including animal shelters, fish hatcheries, kennels, livestock stables, veterinary clinics, or zoos;

(v) Other producers of pollutants identified by the stormwater coordinator as a pollutant hotspot using information provided to or collected by him/her or his/her representatives, or reasonably deduced or estimated by him/her or his/her representatives from engineering or scientific study.

(b) A special pollution reduction plan may be required for land uses or activities that are not identified by this ordinance as hotspot land uses but are deemed by the stormwater coordinator to have the potential to generate concentrations of pollutants in excess of those typically found in stormwater.

(c) The special pollution reduction plan shall be submitted as part of the water quality management plan and the BMPs submitted on the plan shall be subject to all other provisions of this ordinance.

(d) Best management practices specified in the special pollution reduction plan must be appropriate for the pollutants targeted at the site.

(e) A special pollution reduction plan will be valid for a period of five (5) years, at which point it must be renewed. At the time of renewal, any deficiency in the pollutant management method must be corrected.

(5) Security. (a) A security that guarantees satisfactory completion of construction work related to water quality management facilities, channel protection, and/or the establishment of vegetated buffers may be required. Final plat approval or certificate of occupancy may be granted if items in subsection (5)(c) and (d) are completed or if a security guarantees their completion.

(b) The security shall be in conformance with § 14-614.

(c) Prior to approval of a final subdivision plat, release of a security, and/or the issuance of an occupancy permit, the property owner/developer shall provide the town with an executed and recorded copy of the protective covenants and an executed and recorded copy of the easement plat showing the easements associated with the locations of the best management practices, water quality management facilities, vegetated buffers, water quality volume reduction areas, and access easements to said facilities.

(d) Prior to approval of a final subdivision plat, release of a security, and/or the issuance of an occupancy permit, the property owner/developer shall provide the town with an accurate record drawing of the property for all the best management practices, water quality management facilities, vegetated buffers, and water quality volume reduction areas.

(6) Record drawings and design certification. (a) Prior to approval of a final subdivision plat, release of a security, and/or the issuance of an occupancy permit, the property owner/developer has to provide the town with an accurate record drawing of the property for all the best

management practices, water quality management facilities, vegetated buffers, and water quality volume reduction areas shown on the approved water quality management plan(s).

(b) The boundaries of water quality management facilities, BMPs, vegetated buffers, or water quality volume reduction areas shall be shown on the record drawings along with any other information in accordance with guidance provided in the water quality BMP manual.

(c) Record drawings shall include sufficient design information to show that water quality management facilities required by this ordinance will operate as approved. This shall include all necessary computations used to determine percent pollutant removal and the flow rates and treatment volumes required to size water quality management facilities and BMPs.

(d) The easements associated with the water quality management facilities, BMPs, vegetated buffers, or water quality volume reduction areas shall be shown on the record drawings along with any other information in accordance with guidance provided in the water quality BMP manual.

(e) The record drawings shall be stamped by the appropriate design professional required to stamp the water quality management plan and/or a registered land surveyor or licensed to practice in the State of Tennessee.

(7) Inspections and maintenance. (a) Right of entry.

(i) During and after construction, the stormwater coordinator or designee may enter upon any property which has a water quality management facility, BMP, vegetated buffer, or water quality volume reduction area during all reasonable hours to inspect for compliance with the provisions of this ordinance, or to request or perform corrective actions.

(ii) Failure of a property owner to allow such entry onto a property shall be cause for the issuance of a violation, stop work order, withholding of a certificate of occupancy, and/or civil penalties.

(b) Requirements. (i) The owner(s) of existing stormwater facilities, water quality management facilities, BMPs, vegetated buffers, and water quality volume reduction areas shall inspect and maintain all devices and areas in accordance with the covenants for maintenance of stormwater facilities and best management practices.

(ii) Inspection and maintenance of privately owned existing stormwater facilities, water quality management facilities, best management practices, vegetated buffers, and water quality volume reduction areas shall be performed at the sole cost and expense of the owner(s) of such facilities/areas. The best



management practices owner shall perform routine inspections on at least an annual basis. Inspections shall be performed by a person familiar with the control measures. The best management practices owner shall maintain documentation of these inspections. A comprehensive inspection of all BMPs shall be conducted once every five (5) years by a professional engineer or landscape architect. Records stating the BMP, date, latitude/longitude, address, BMP owner information, description of BMP, photos of BMP and any corrective action needed and when performed shall be maintained by the BMP owner.

(iii) Inspections and maintenance shall be performed in accordance with specific requirements and guidance provided in the covenants for maintenance of stormwater facilities and best management practices and the water quality BMP manual. Inspection and maintenance activities shall be documented by the property owner (or his/her designee), and such documentation shall be maintained by the property owner for a minimum of three (3) years, and shall be made available for review by the stormwater coordinator upon request.

(iv) The stormwater coordinator has the authority to impose more stringent inspection requirements as necessary for purposes of water quality protection and public safety.

(v) The removal of sediment and/or other debris from existing stormwater facilities, water quality management facilities, and best management practices shall be performed in accordance with all town, state, and federal laws and the water quality BMP manual. The stormwater coordinator may stipulate additional guidelines if deemed necessary for public safety.

(vi) The stormwater coordinator may order corrective actions to best management practices, existing stormwater facilities, water quality management facilities, vegetated buffer areas, and/or water quality volume reduction areas as are necessary to properly maintain the facilities/areas within the town for the purposes of water quality treatment, channel erosion protection, adherence to local performance standards, and/or public safety. When corrective action is required, the BMP owner must initiate the corrective action within thirty (30) days of notice. If the property owner(s) fails to perform corrective action(s), the stormwater coordinator shall have the authority to order the corrective action(s) to be performed by the town or others. In such cases where a performance bond exists, the town shall utilize the bond to perform the corrective actions. In such cases where a performance bond does not exist, the cost of labor, equipment, and materials used will be charged to the developer/owner in addition

to a service charge of one hundred dollars (\$100.00) per hour. The town will invoice the developer/owner directly and payment shall be received within fourteen (14) days. Failure to pay for remedial actions taken by the town under this section may result in the town attorney filing a lien against the property involved in the action, and may negate any intention by the town to accept responsibility for any best management practices, existing stormwater facilities, water quality management facilities, vegetated buffer areas, and/or water quality volume reduction areas. The decision of the town to take remedial actions to protect the health and safety of the public in no way supplants or negates the authority of the appropriate town staff to issue citations for violations of this ordinance.

(c) Any alteration, improvement, or disturbance to water quality management facilities, BMPs, vegetated buffers, or water quality volume reduction areas shown in the water quality management plan, certified record drawings, and/or easement plats shall be prohibited without authorization from the stormwater coordinator. This does not include alterations that must be made in order to maintain the intended performance of the water quality management facilities, BMPs, vegetated buffers, or water quality volume reduction areas. (as added by Ord. #2012-016, Oct. 2012)

**14-635. Illicit discharge and illegal connection regulations.**

(1) Prohibition of illicit discharges. No person shall throw, drain, or otherwise discharge into the Town of Bluff City storm drain system any pollutants or waters containing any pollutants, other than stormwater. The town should identify areas that would be considered "hot spots" for pollution runoff. These sites should be investigated for potential highly contaminated runoff and, if found, enforcement action shall occur.

(2) Exemptions. The following discharges are exempt from the prohibition in subsection (1) above:

- (a) Water line flushing performed by a governmental agency;
- (b) Landscape irrigation or lawn watering with potable water;
- (c) Diverted stream flows permitted by the State of Tennessee;
- (d) Rising ground water;
- (e) Ground water infiltration to storm drains;
- (f) Uncontaminated pumped ground water;
- (g) Foundation or footing drains (not including active groundwater dewatering systems);
- (h) Crawl space pumps;
- (i) Air conditioning condensation;
- (j) Springs;
- (k) Natural riparian habitat or wetland flows;

- (l) Discharges or flows from fire fighting;
- (m) Individual residential washing of vehicles;
- (n) Vehicle washing for non-profit fund raising purposes as long as the activity does not negatively impact waters of the state;
- (o) Swimming pools (if de-chlorinated-typically less than one part per million chlorine);
- (p) Street wash waters resulting from normal street cleaning operations as long as the water is cold and does not contain any soap, detergent, degreaser, solvent, emulsifier, dispersant, or other harmful cleaning substance;
- (q) Dye testing permitted by the Town of Bluff City;
- (r) Any other water source not containing pollutants;
- (s) Other discharges specified in writing by the Town of Bluff City as being necessary to protect public health and safety;
- (t) Discharges permitted under an NPDES permit or order issued to the discharger and administered under the authority of the state and federal environmental protection agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the Town of Bluff City storm drain system.

(3) Prohibition of illegal connections. The construction, connection, use, maintenance or continued existence of any illegal connection to the Town of Bluff City storm drain system is prohibited:

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

(b) A person violates this chapter if the person connects a line conveying sewage to the Town of Bluff City storm drain system, or allows such a connection to continue.

(c) Improper connections in violation of this chapter must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the receiving sanitary sewer agency.

(d) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the enforcement officer requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be completed, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storms sewer system, sanitary sewer system or

other discharge point be identified. Results of these investigations are to be documented and provided to the enforcement officer.

(4) Storm drain inlet liability. Storm drain inlets installed in new public streets whether installed by private parties or the Town of Bluff City shall be stenciled with the words "Don't Dump--Drains to Stream" using traffic bearing paint and minimum of two inch (2") high letters.

The stenciling shall be placed in a conspicuous location adjacent to or on the inlet. The preferred location for the stenciling is outside of the road pavement on the curb, if applicable, or the top of the inlet structure. Other alternate locations for the stenciling if the top of the curb or structure does not work are the pavement or sidewalk.

Other methods such as storm drain markers or castings in the structures to provide the words "Don't Dump--Drains to Stream" adjacent to or on the inlets may be used with the building inspector's approval and as long as the wording is conspicuous and long lasting.

The stenciling or other method of labeling installed by private developers within their new developments shall be guaranteed by the private developer for one (1) year from the time of installation and after this guarantee period the Town of Bluff City shall be responsible for maintenance. Labeling installed by the Town of Bluff City or citizen groups in existing public streets shall be maintained by the Town of Bluff City from the time of installation. Other wording besides "Don't Dump--Drains to Stream" may be used with the stormwater coordinator's approval and as long as the intent is the same.

(5) Watercourse protection. Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property boundaries free of trash, debris, and other items and obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse.

(6) Industrial construction activity discharges. Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the enforcement officer prior to allowing discharges to the town of storm drain system.

(7) Access and inspection of properties and facilities. The stormwater coordinator or enforcement officer shall be permitted to enter and inspect properties and facilities at reasonable times as often as may be necessary to determine compliance with this chapter.

(a) If a property or facility has security measures in force which require proper identification and clearance before entry into its premises, the owner or operator shall make the necessary arrangements to allow access for representatives of the enforcement officer.

(b) The owner or operator shall allow the stormwater coordinator or enforcement officer ready access to all parts of the premises for the purposes of inspection, sampling, photography,

videotaping, examination and copying of any records that are required under the conditions of an NPDES permit to discharge stormwater.

(c) The stormwater coordinator or enforcement officer shall have the right to set up on any property or facility such devices as are necessary in the opinion of the enforcement officer to conduct monitoring and/or sampling of flow discharges.

(d) The stormwater coordinator or enforcement officer may require the owner or operator to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to the enforcement officer. This sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator at his/her own expense. All devices used to measure flow and quality shall be calibrated to ensure their accuracy.

(e) Any temporary or permanent obstruction to safe and easy access to the property or facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of the stormwater coordinator or enforcement officer and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.

(f) Unreasonable delays in allowing the stormwater coordinator or enforcement officer access to a facility are a violation of this chapter.

(g) If the stormwater coordinator or enforcement officer has been refused access to any part of the premises from which stormwater is discharged, and the enforcement officer is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, environment and welfare of the community, then the enforcement officer may seek issuance of a search warrant from any court of competent jurisdiction.

(8) Responsibility for discoveries, containment and cleanup. Notwithstanding other requirements of law, as soon as any person responsible for a facility, activity or operation, or responsible for emergency response for a facility, activity or operation has information of any known or suspected release of pollutants or non-stormwater discharges from that facility or operation which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the Town of Bluff City storm drain system, state waters, or water of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such releases so as to minimize the effects of the discharge.

(9) Responsibility for notification. The person responsible for a facility operation or premises on which a suspected release of pollutants or

non-stormwater discharge may be generated shall notify the authorized enforcement agency in person, by phone, or facsimile no later than twenty-four (24) hours of the nature, quantity and time of occurrence of the discharge. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the stormwater coordinator or enforcement officer within three (3) business days of the phone or in person notice.

(10) Records required. 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. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill.

(11) Immediate notification of hazardous discharge. In the event of such a release of hazardous materials, emergency response agencies and/or other appropriate agencies shall be immediately notified through emergency dispatch services.

(12) Failure to notify a violation. Failure to provide notification of a release as provided above is a violation of this chapter.

(13) Violations. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter.

(a) Any person who has violated or continues to violate the provisions of this chapter, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

(b) In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, welfare, and environment and is declared and deemed a nuisance, and may be abated by injunctive or other equitable relief as provided by law.

(14) Violation an immediate danger to public health or safety. In the event the violation constitutes an immediate danger to public health or public safety, the stormwater coordinator or enforcement officer is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The stormwater coordinator or enforcement officer is authorized to seek costs of the abatement as outlined in subsection (18) of this section.

(15) Notice of violation. Whenever the stormwater coordinator or enforcement officer finds that a violation of this section has occurred, the stormwater coordinator or enforcement officer may order compliance by written notice of violation.

(a) The notice of violation shall contain:

(i) The name and address of the alleged violator;

(ii) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;

(iii) A statement specifying the nature of the violation;

(iv) A description of the remedial measures necessary to restore compliance with this chapter and a time schedule for the completion of such remedial action;

(v) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and

(vi) A statement that the determination of violation may be appealed to the enforcement officer by filing a written notice of appeal within thirty (30) days of service of notice of violation.

(b) Such notice may require without limitation:

(i) The performance of monitoring, analyses, and reporting;

(ii) The elimination of illicit discharges and illegal connections;

(iii) That violating discharges, practices, or operations shall cease and desist;

(iv) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

(v) Payment of costs to cover administrative and abatement costs;

(vi) The implementation of pollution prevention practices.

(16) Appeal of notice of violation. Any person receiving a notice of violation may appeal the determination of the stormwater coordinator or enforcement officer in accordance with § 14-631.

(17) Enforcement measures after appeal. If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within thirty (30) days of the decision of the appropriate authority upholding the decision of the enforcement officer, then representatives of the stormwater coordinator or enforcement officer may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

(18) Costs of abatement of the violation. Within thirty (30) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs.

(a) The property owner may file a written protest objecting to the assessment or to the amount of the assessment within thirty (30)

days of such notice. If the amount due is not paid within thirty (30) days after receipt of the notice, or if an appeal is taken, within thirty (30) days after a decision on said appeal upholds the assessment, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

(b) Any person violating any of the provisions of this chapter shall become liable to the Town of Bluff City by reason of such violation.

(19) Remedies not exclusive. (1) The remedies listed in this section are not exclusive of any other remedies available under any applicable federal, state or local law and the stormwater coordinator or enforcement officer may seek cumulative remedies.

(2) The stormwater coordinator or enforcement officer may recover attorney's fees, court costs, and other expenses associated with enforcement of this section, including sampling and monitoring expenses. (as added by Ord. #2012-016, Oct. 2012)

**14-636. Variances.** (1) Variances to the requirements of this chapter shall be handled by the board of zoning appeals.

(2) The board of zoning appeals shall not approve variances that cause the town to be in violation of any state or federal NPDES permit, TMDL, or other applicable water quality regulation. (as added by Ord. #2012-016, Oct. 2012)

**14-637. Penalties and enforcement.** (1) Any developer or 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 stormwater coordinator or any authorized enforcement officer or the Bluff City Planning Commission, shall be guilty of a violation of this municipal ordinance, and each day of such violation or failure to comply shall be deemed a separate offense and punishable accordingly. Upon conviction, the developer or person may be subject to fines of up to five thousand dollars (\$5,000.00) per day for each day of violation.<sup>1</sup> Citations for violations may be issued by any enforcement officer.

(2) In assessing the penalty, the stormwater coordinator may consider:

- (a) The harm done to the public health or the environment;
- (b) Whether the penalty imposed will be a substantial economic deterrent to the illegal activity;
- (c) The economic benefit gained by the violator;

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 68-621-1101.



- (d) The amount of effort put forth by the violator to remedy this violation;
- (e) Any unusual or extraordinary enforcement costs incurred by the town;
- (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.

(3) In addition to any penalty, the town may recover:

(a) All damages proximately caused by the violator to the town, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this ordinance, or any other actual damages caused by the violation;

(b) The costs of the town's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by ordinance.

(4) The town may bring legal action to enjoin the continuing violation of this ordinance, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.

(5) The remedies set forth in the 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.

(6) If the stormwater coordinator determines that a property owner, developer, permit holder, or other entity or individual (violator) is in violation of this chapter, the following procedures shall apply:

(a) A notice from the stormwater coordinator or enforcement officer shall be served on the violator either by registered or certified mail, delivered by hand to the violator or an agent or employee of the permittee supervising the activities, or by posting the notice at the property in a visible location, that the violator is in non-compliance.

(b) The notice of non-compliance shall specify the measures needed to comply and shall specify the time within which such corrective measures shall be completed. The stormwater coordinator or enforcement officer shall require a reasonable period of time for the violator to implement measures bringing the project into compliance, however, if it is determined by the stormwater coordinator or enforcement officer that health and safety factors or the damage resulting from being non-compliant is too severe, immediate action may be required.

(c) If the violator holder fails to comply within the time specified, the violator may be subject to the revocation of any permits. In addition, the violator shall be deemed to be in violation of this ordinance and upon conviction shall be subject to the penalties provided in this ordinance.

(d) In conjunction with the issuance of a notice of non-compliance, or subsequent to the permittee not completing the corrective measures directed in the time period required, the stormwater coordinator, or his designee, may issue an order requiring all or part of the land disturbing activities on the site be stopped. The stop work order may be issued with or as part of the notice of non-compliance, or may be delivered separately in the same manner as directed in § 14-637(6)(a). (as added by Ord. #2012-016, Oct. 2012)

**14-638. Severability.** If any provision of this ordinance is held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect any remaining provisions. (as added by Ord. #2012-016, Oct. 2012)

**CHAPTER 7**

**[DELETED.]**

(as added by Ord. #2003-002, May 2003, and deleted by Ord. #2008-001, Jan. 2008)