

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

1. ZONING AND SUBDIVISION.
2. SIGNS AND ADVERTISEMENTS.
3. STORMWATER ORDINANCE.

CHAPTER 1

ZONING AND SUBDIVISION

SECTION

- 14-101. Walden zoning ordinance.
- 14-102. Subdivision regulations.

14-101. Walden zoning ordinance. The Walden Zoning Ordinance and any amendments to such ordinance, are incorporated herein by reference. A copy of the Walden Zoning Ordinance shall be kept in the recorder's office, or other office, as will make such zoning ordinance accessible for public inspection or review.

14-102. Subdivision regulations. The Walden subdivision regulations and any amendments thereto, as adopted by the Walden Planning Commission, is incorporated herein by reference. A copy of the Walden Subdivision regulations shall be kept in the recorder's office, or other office, as will make such regulations accessible for public inspection or review.

CHAPTER 2

SIGNS AND ADVERTISEMENTS

SECTION

- 14-201. Findings, purpose and intent; interpretation.
- 14-202. Definitions.
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- 14-210. VC-1 Village Center Zone.
- 14-211. Supplemental criteria in all districts.
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- 14-214. Procedures.
- 14-215. Nonconformity and modification.
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14-201. Findings, purpose and intent; interpretation. (1) Signs obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation. The purpose of this article is to regulate the size, color, illumination, movement, materials, location, height and condition of all signs placed on private property for exterior observation, thus ensuring the protection of property values, the character of the various neighborhoods, the creation of a convenient, attractive and harmonious community, protection against destruction of or encroachment on historic convenience to citizens and encouraging economic development. This article allows adequate communication through signage while encouraging aesthetic quality in the design, location, size and purpose of all signs. This article must be interpreted in a manner consistent with the guarantee of free speech in the state and federal constitutions. If any provision of this article is found by a court of competent jurisdiction to be invalid, such finding must not affect the validity of other provisions of this article which can be given effect without the invalid provision.

(2) Signs not expressly permitted as being allowed by right or by special use permit under this article, by specific requirements in another portion of the municipal code, or otherwise expressly allowed by the board of mayor and aldermen within its jurisdiction are prohibited.

(3) A sign placed on land or on a building for the purpose of identification, protection or directing persons to a use conducted therein must

be deemed to be an integral but accessory and subordinate part of the principal use of land or building. Therefore, the intent of this article is to establish limitations on signs in order to ensure they are appropriate to the land, building or use to which they are appurtenant and are adequate for their intended purpose while balancing the individual and community interests identified in subsection (1) of this section.

(4) These regulations are intended to promote signs that are compatible with the use of the property to which they are appurtenant, landscape and architecture of surrounding buildings, are legible and appropriate to the activity to which they pertain, are not distracting to motorists, and are constructed and maintained in a structurally sound and attractive condition.

(5) These regulations distinguish between portions of the town designed for primarily vehicular access and portions of the town designed for primarily pedestrian access.

(6) These regulations do not regulate every form and instance of visual communication that may be displayed anywhere within the jurisdictional limits of the town. Rather, they are intended to regulate those forms and instances that are most likely to meaningfully affect one (1) or more of the purposes set forth above.

(7) These regulations do not eliminate all of the harms that may be created by the installation and display of signs. Rather, they strike an appropriate balance that preserves ample channels of communication by means of visual display while still reducing and mitigating the extent of the harms caused by signs.

(8) These regulations are not intended to and do not apply to signs erected, maintained or otherwise posted, owned or leased by the state, the federal government or this town. The inclusion of "government" in describing some signs does not intend to subject the government to regulation, but instead helps illuminate the type of sign that falls within the immunities of the government from regulation. (Ord. #110, Jan 1990, as replaced by Ord. #2020-334, Dec. 2020 ***Ch9_11-09-21***)

14-202. Definitions. (1) "Code." Unless otherwise specifically referenced means the Code of the Town of Walden.

(2) "Digital billboard." A sign that is static and changes messages by any electronic process or remote control. Digital billboards are not allowed.

(3) "Electric sign." Any sign containing electric wiring. This does not include signs illuminated by an exterior floodlight source.

(4) "Flag." Means a sign made of fabric, bunting, or similar material, attached along one (1) side to a single pole that is either freestanding or attached to a building.

(5) "Flashing sign." Any illumined sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when

such sign is in use. For the purpose of this code any moving illuminated sign, except digital billboards, must be considered a flashing sign.

(6) "Flat wall (façade-mounted) sign." A sign affixed directly to or painted on or otherwise inscribed on an exterior wall and confined within the limits thereof of any building and which projects from that surface less than twelve inches (12") at all points.

(7) "Freestanding sign." A sign erected and maintained on a freestanding frame, mast or pole not attached to any building, and not including ground mounted signs.

(8) "Government sign." A government sign is a sign that is constructed, placed or maintained by the federal, state or local government or a sign that is required to be constructed, placed or maintained by the federal, state or local government either directly or to enforce a property owner's rights.

(9) "Graffiti." Means any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advance authorization, is otherwise deemed a public nuisance by the town. Graffiti includes snipe signs.

(10) "Graffiti implement." Means an aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or manmade surface.

(11) "Ground mounted sign." A sign which extends from the ground or has support which places the bottom of the sign less than two feet (2') from the ground.

(12) "Highway sign." A Freestanding sign, integral sign or flat wall sign that is erected and maintained within the view of motorists who are driving on a highway.

(13) "Holiday lights or mini lights" mean light fixtures that use bulbs that are sized C6, C7, or C9 or LED bulbs that are eight (8) mm or smaller.

(a) Rope light means a light that has holiday lights or mini lights inside of a PVC tube.

(b) String lights means a lighting fixture that is composed of electrical wiring encased in plastic with sockets for bulb placement.

(14) "Integral sign." A sign that is embedded, extruded or carved into the material of a building façade. A sign made of bronze, brushed stainless steel or aluminum, or similar material attached to the building façade.

(15) "Lessee" includes a person who rents property for residential purposes.

(16) "Marquee sign." A canopy or covering structure bearing a signboard or copy projecting from and attached to a building.

(17) "Minor sign." A sign described in § 14-205(7) and any sign not larger than six (6) square feet that can be removed by hand if abandoned.

(18) "Original art display." A hand-painted work of visual art that is either affixed to or painted directly on the exterior wall of a structure with the permission of the property owner. An original art display does not include: mechanically produced or computer-generated prints or images, including but not limited to digitally printed vinyl; electrical or mechanical components; or changing image art display.

(19) "Outdoor advertising sign." A sign that advertises goods, products or services which are not sold, manufactured or distributed on or from the premises or facilities on which the sign is located. Outdoor advertising signs are not allowed.

(20) "Portable sign." Any structure without a permanent foundation or otherwise permanently attached to a fixed location, which can be carried, towed, hauled or driven and is primarily designed to be moved rather than be limited to a fixed location regardless of modifications that limit its movability.

(21) "Projecting sign." A sign, other than a wall sign, which projects from and is supported by a wall of a building or structure.

(22) "Roof sign." A sign located on or above the roof of any building, not including false mansard roof, canopy, or other fascia.

(23) "Sign." A name, identification, description, display or illustration, which is affixed to, painted or represented directly or indirectly upon a building, or other outdoor surface which directs attention to or is designed or intended to direct attention to the sign face or to an object, product, place, activity, person, institution, organization or business. Signs located completely within an enclosed building, and not exposed to view from a street, must not be considered a sign. Each display surface of a sign or sign face must be considered to be a sign.

(24) "Sign area." The space enclosed within the extreme edges of the sign for each sign face, not including the supporting structure or where attached directly to a building wall or surface, the space within the outline enclosing all the characters of the words, numbers or design.

(25) "Sign face." The entire display surface area of a sign upon, against or through which copy is placed.

(26) "Snipe sign." means any small sign, generally of a temporary nature, made of any material, when such sign is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes, fences, or other objects not erected, owned and maintained by the owner of the sign.

(27) "Temporary sign." A banner, pennant, poster or advertising display constructed of paper, cloth, canvas, plastic sheet, cardboard, wallboard, plywood or other like materials and that appears to be intended or is determined by the code official to be displayed for a limited period of time (rather than permanently attached to the ground or a structure).

(28) "Vehicle sign." Any sign attached to or displayed on a vehicle. (Ord. #110, Jan. 1990, as amended by Ord. #93-159, Jan. 1994, and Ord. #2020-334, Dec. 2020 **Ch9_11-09-21**)

14-203. Interpretation of districts or zones. When this chapter makes reference to a district or zone, residential zone are those defined by the Walden Zoning Ordinance as A-1, E-1, R-1; and commercial zones are those defined as C-1, VC-1 and LM-1. (Ord. #110, Jan. 1990, as replaced by Ord. #2020-334, Dec. 2020 **Ch9_11-09-21**)

14-204. Prohibited signs. (1) Signs are prohibited unless:

- (a) Constructed pursuant to a valid permit when required under the municipal code; and
- (b) Authorized under this chapter or otherwise by the municipal code.

In residential zones or on property used for non-transient residential uses, commercial signs are prohibited. (Ord. #110, Jan. 1990, as replaced by Ord. #2020-334, Dec. 2020 **Ch9_11-09-21**)

14-205. Authorized signs. The following signs are authorized without a need for a permit:

(1) Although these regulations do not apply to signs erected, maintained or posted by the state, federal, county or this government, these regulations clarify that government signs which form the expression of that government are allowed in every zoning district and include the signs described and regulated in herein when erected and maintained pursuant to law.

(2) Traffic control devices on private or public property must be erected and maintained to comply with the Manual on Uniform Traffic Control Devices adopted by the state. Because these regulations do not apply to the state, federal, county or this government, a failure to comply with this provision by those governments does not constitute evidence of negligence or form the basis for a cause of action.

(3) Each property owner must mark their property using numerals that identify the address of the property so that public safety departments can easily identify the address from the public street. Where required under this code or other law the identification may be on the curb, mailbox or on the principal building on the property. If on the building, the size and location of the identifying numerals and letters if any must be proportional to the size of the building and the distance from the street to the building. In cases where the building is not located within view of the public street, the identifier must be located on the mailbox or other suitable device such that it is visible from the street.

(4) Where a federal, state or local law requires or allows a property owner to post a sign on the owner's property to warn of a danger or to prohibit

access to the property either generally or specifically, the owner must comply with the federal, state or local law to exercise that authority by posting a sign on the property. If the federal, state or local regulation describes the form and dimensions of the sign, the property owner must comply with those requirements, otherwise, when not defined, the sign shall be no larger than two (2) square feet and located in a place on the property to provide access to the notice that is required to be made. Signs posted under this section are not snipe signs.

(5) Official notices or advertisements posted or displayed by or under the direction of any public or court officer in the performance of official or directed duties; provided, that all such signs must be removed by the property owner no more than ten (10) days after their purpose has been accomplished or as otherwise required by law. Signs posted under this section are not snipe signs.

(6) The signs described in subsections (3), (4) and (5) are an important component of measures necessary to protect the public safety and serve the compelling governmental interest of protecting traffic safety, complying with legal requirements, serving the requirements of emergency response and protecting property rights or the rights of persons on property.

(7) Temporary signs, generally. (a) Temporary signs allowed at any time:

(i) A property owner may place one sign with a sign face no larger than three (3) square feet on the property at any time. This section does not include snipe signs.

(ii) A property owner may place a sign no larger than eight and one-half by eleven inches (8.5" x 11") in one (1) window on the property at any time.

(b) Temporary signs may be located on the owner's property for a period of ninety (90) days prior to an election involving candidates for a federal, state or local office or which involves an issue on the ballot of an election and remain for up to sixty (60) days subsequent to such election. This section does not authorize snipe signs.

(c) One (1) temporary sign that is not a snipe sign may be located on a property when:

(i) The owner consents and that property is being offered for sale through a licensed real estate agent;

(ii) If not offered for sale through a real estate agent, when the sign is owned by the property owner and that property is offered for sale by the owner through advertising in a local newspaper of general circulation; and

(iii) For a period of twenty-one (21) days following the date on which a contract of sale has been executed by a person purchasing the property.

(d) One (1) temporary sign may be located on the owner's property on the day prior to and on a day when the property owner is opening the property to the public; provided, however, the owner may not use this type of sign in a residential district on more than five (5) days in a year and may not use this type of sign in any commercial district for more than fourteen (14) days in a year. For purposes of this section, a year is counted from the first day on which the sign is erected counting backwards and from the last day on which the sign exists counting forward. This section does not authorize snipe signs.

(e) During the period from the Thanksgiving holiday to January 10, a property owner may place temporary signs on the property and may use lights to decorate the property even if the lights might be arranged to form a sign. This section does not authorize snipe signs.

(f) A property owner may place and maintain one (1) temporary sign on the property the last week of June and the first week of July. This section does not authorize snipe signs.

(g) A person exercising the right to place temporary signs on a property as described in this § 14-206 must limit the number of signs on the property per one quarter (0.25) acre at any one (1) time to two (2) plus a sign allowed in 14-205(7)(a)(ii), or if the property is smaller than one quarter (0.25) acres then no more than two (2) signs plus a sign allowed in 14-205(7)(a)(ii) per principal building on the property.

(h) The sign face of any temporary sign, unless otherwise limited in this § 14-205 must not be larger than three (3) square feet.

The lessee of a property is considered the property owner as to the property the lessee holds a right to use exclusive of others (or the sole right to occupy). The terms of a lease or other agreement under which the property is occupied controls in determining whether property is occupied exclusively by a lessee. If there are multiple Lessees of a property then each lessee must have the same rights and duties as the property owner as to the property the lessee leases and has the sole right to occupy and the size of the property must be deemed to be the property that the lessee has the sole right to occupy under the lease.

(8) Signs not in an enclosed building and not exposed to view from a street or public right-of-way, public place or other property such as those not visible to a person from a public right of way, public place or other property.

(9) Flags as follows:

(a) Residential districts. In a single-family zoning district, two (2) flags and one (1) flagpole per premises. Each flag must be a maximum of fifteen (15) square feet in area. Flag poles must meet the minimum yard setback requirements for a principal building.

(b) Commercial districts. In a commercial district, one (1) flag per twenty-five feet (25') of frontage on a right-of-way up to a maximum of three (3) flags and three (3) flag poles per premises. Each flag must be

a maximum of twenty-four (24) square feet in area. Flag poles must be a maximum of forty feet (40') in height but no higher than the highest point of the nearest principal building's roof on the premises. Flag poles must meet the minimum yard setback requirements for a principal building or a minimum of ten feet (10') whichever is more restrictive.

(i) Small flags at vehicle sales and service establishments. One (1) small flag of no more than one (1) square foot in area may be attached to vehicles on display for sale or rent at vehicle sales and service establishments. Such flag must be no higher than two feet (2') above the height of the vehicle as if it were displayed at grade level.

(ii) Vehicle signs must be covered if the vehicle is parked on the same property for longer than twelve (12) hours so that the sign is not visible from a public way.

(10) Signs within ballparks and athletic fields. Signs within ballparks and athletic fields as follows:

(a) Scoreboards facing inward to the audience; and

(b) Such other signs as may be affixed to the fence or scoreboard, facing inward to the field of play that are no larger than thirty-two (32) square feet in area.

(11) Memorial plaques, cornerstones, historical tablets and the like.

(12) Nameplates.

(13) Barber poles. (Ord. #110, Jan. 1990, as replaced by Ord. #2020-334, Dec. 2020 **Ch9_11-09-21**)

14-206. Permit required. (1) In general. A sign permit is required prior to the display and erection of any sign except as provided in § 14-205.

(2) Application for permit. (a) An application for a sign permit must be filed with the town recorder on forms furnished by the town. The applicant must provide sufficient information to determine if the proposed sign is allowed under this code and other applicable laws, regulations, and ordinances. An application for a temporary sign must state the dates intended for the erection and removal of the sign. An application for any sign must state the date when the owner intends to erect it and provide a bond sufficient to allow the town to remove it if it is not properly maintained or if it is abandoned.

(b) The town recorder or designee must promptly process the sign permit application and approve the application, reject the application, or notify the applicant of deficiencies in the application within fifteen (15) days after receipt. Any application that complies with all provisions of this code, the zoning ordinance, the building code, and other applicable laws, regulations, and ordinances must be approved.

(c) If the application is rejected, the town recorder must provide a list of the reasons for the rejection in writing. An application must be

rejected for non-compliance with the terms of this code, the zoning ordinance, building code, or other applicable law, regulation, or ordinance.

(3) Permit fee. A nonrefundable fee as set forth in the uncodified fee schedule adopted by the town council must accompany all sign permit applications.

(4) Bond. The applicant for any sign except a minor sign must submit a bond in an amount and from an issuer approved by the town recorder to protect the town from the cost of removing the sign should it no longer be allowed under the laws of the town, state or federal government. If the permit is issued a condition of the permit must be that the bond is maintained and increased or decreased based upon the then current estimates of the costs of removal of the sign. If the sign is removed without cost to the town the town must release the bond but may execute upon it should the town be held responsible for or incur any cost in removing the sign.

(5) Duration and revocation of permit. If a sign is not installed within six (6) months following the issuance of a sign permit the permit must be void. The town may revoke a sign permit under any of the following circumstances:

(a) The town determines that information in the application was materially false or misleading;

(b) The sign as installed does not conform to the sign permit application;

(c) The sign violates this code, the zoning ordinance, building code, or other applicable law, regulation, or ordinance; or

(d) The code official/zoning administrator determines that the sign is not being properly maintained or has been abandoned. (Ord. #110, Jan. 1990, as replaced by Ord. #2020-334, Dec. 2020 **Ch9_11-09-21**)

14-207. Appeals and variances. (1) Appeals. If the town recorder denies a permit the applicant may appeal to the board of mayor and aldermen. The decision of the town recorder will be accorded a presumption of correctness.

(2) Variances. Variances shall be considered and granted in the manner provided in article 9 of this zoning ordinance. (Ord. #110, Jan. 1990, as replaced by Ord. #2020-334, Dec. 2020 **Ch9_11-09-21**)

14-208. Specific sign regulations for residential districts. The following sign regulations apply to Residential Districts.

(1) Size. (a) When a sign is authorized on a property, the sign must not exceed three (3) square feet in area. Where attached dwellings exist on a property the total square footage of signs must not exceed two (2) square feet per dwelling unit and must not exceed a total of fifteen (15) square feet in area per structure.

(b) For residential developments (including subdivision identification) the maximum size and number of signs that the owner or

owners of the residential development may erect and maintain at the entrances to the development must be controlled according to the following:

- (i) Residential developments four (4) acres or less in area may have a sign or signs with a total area of no more than thirty-two (32) square feet.
- (ii) Residential developments over four (4) acres but less than forty (40) acres in area may have a sign or signs which have a total area of no more than forty-eight (48) square feet.
- (iii) Residential developments of forty (40) acres or more in area may have a sign or signs with a total area of no more than one hundred two (102) square feet.
- (2) Location. Permitted signs may be anywhere on the premises, except to the extent that they may impair the sight triangle at any intersection.
- (3) Height. The following maximum heights must apply to signs:
 - (a) If ground-mounted, the top must not be over four feet (4') above the ground; and
 - (b) If building mounted, must be flush mounted and must not project above the roof line.
- (4) Illumination. Illumination may not be used in residential districts.
- (5) The following signs are not allowed. Highway signs, portable signs, marquee signs, digital billboard, outdoor advertising signs, and projecting signs. temporary signs that might fall within the definition of "highway sign" are not prohibited by this section provided they comply with § 14-205.
- (6) Commercial uses lawfully operating in a residential district must comply with § 14-210(6) and (7). (Ord. #110, Jan. 1990, as replaced by Ord. #2020-334, Dec. 2020 **Ch9_11-09-21**)

14-209. Specific sign regulations for commercial districts. The following sign regulations apply to commercial districts except for VC-1 Village Center.

- (1) Number and size. For each lot or parcel a sign at the listed size may be authorized as follows:
 - (a) Signs must not exceed twenty-five (25) square feet.
 - (b) Along Taft Highway signs must not exceed the following area requirements based on the speed limit and number of traffic lanes of the adjacent public street:

Maximum Speed Limit	No. of traffic lanes	Max. Sq. Footage of sign
30 mph or less	3 or less	32 sq. ft.
35 mph or more	3 or less	50 sq. ft.

(c) Two (2) or more lots or parcels having a combined linear frontage of eighty-five feet (85') may combine their sign areas allowed by § 14-210(1)(b). For the purpose of providing one common free-standing or ground-mounted sign. The sign must not exceed one hundred fifty (150) square feet.

(d) Corner Lots. Where a lot fronts on more than one (1) street, only the square footage computed for each street frontage must face that street frontage.

(e) If not otherwise regulated as to maximum sign area in this code, signs are governed by the following:

Maximum Sign Area	Street Frontage
20 sq. ft.	85 ft. or less
25 sq. ft.	86-90 ft.
30 sq. ft.	91-99 ft.
35 sq. ft.	100 ft. or more

(f) Highway signs. Highway signs must be permitted only on lots bordering Taft Highway within a Commercial District. In determining these limitations, the following must apply:

(i) Minimum spacing between signs on the same side of the highway must be five hundred feet (500').

(ii) For the purpose of applying the spacing requirements of subsection (1) above, the following must apply:

(A) Distances must be measured parallel to the centerline of the highway;

(B) Measurements for the spacing between signs must be based on when the construction of the sign:

(1) Received final approval by the code official measuring from the first sign to have received that approval; or

(2) If the code official has not given final approval to a sign that will be limited by the spacing requirement once it is constructed, then

(a) Measured from the first sign given a building permit that is not cancelled or void at the time of measurement; or

(b) When no permit has been issued that is still valid, measured from the first fully complete application for a building permit

received by the code official that has not been cancelled or which is void; and

(c) A back-to-back, multiple signs on one (1) freestanding pole, double-faced or V-type sign must be considered as one (1) sign.

(2) Location. (a) Flat wall signs may be located on any wall of the building.

(b) Freestanding signs must have a minimum clearance of eight feet, six inches (8' 6") above a sidewalk and fifteen feet (15') above driveways.

(c) One (1) freestanding or ground-mounted sign per lot or parcel except as provided in §§ 14-209(1)(b) and 14-210(1)(f). may be located anywhere on the premises except as follows:

(i) A ground-mounted sign must not be located in a required side yard, rear yard or within five feet (5') of a street right-of-way.

(ii) A freestanding sign must not be located in a required side or rear yard. A freestanding sign may project up to the street right-of-way provided there is a minimum ground clearance of eight feet, six inches (8' 6") and provided the location complies with the Manual on Uniform Traffic Control Devices.

(d) Marquee signs or signs located on or attached to marquees must have a minimum clearance of not less than eight feet six inches (8' 6"),. The maximum vertical dimension of signs must be determined as follows:

Height above Grade	Vertical Dimension
8' 6" up to 10'	2' 6" high
10' up to 12'	3' high
12' up to 14'	3' 6" high
14' up to 16'	4' high
16' and over	4' 6" high

(e) Wall signs must not extend above the top of a parapet wall or a roofline at the wall, whichever is higher.

(f) Permitted highway signs may be allowed anywhere on the premises except in a required side yard, rear yard or within twenty feet (20') of a street right-of way.

(3) Height. (a) Ground-mounted signs must not exceed four feet in (4') height from ground level.

(b) Freestanding signs are subject to the following restrictions:
 (i) The maximum height of any freestanding sign above the average grade elevation surrounding the sign shall not exceed the following:

(A) Eight feet (8') where the sign face does not exceed forty (40) square feet;

(B) Ten feet (10') where the sign face does not exceed sixty (60) square feet; or

(C) Twelve feet (12') where the sign face exceeds sixty (60) square feet.

(ii) The bottom edge of the sign shall not exceed four feet (4') in height from the lowest grade elevation at the base of the sign.

(iii) The maximum width of any freestanding sign shall not exceed the following:

(A) Fifteen feet (15') where the sign face does not exceed forty (40) square feet;

(B) Twenty feet (20') where the sign face does not exceed sixty (60) square feet; or

(C) Twenty-five feet (25') where the sign face exceeds sixty (60) square feet.

(c) Highway signs must not exceed thirty-five feet (35') in height from ground level.

(4) Content. (a) Any of the signs pursuant to this section may be changeable copy signs.

(b) The primary identification sign as allowed under § 14-205(3) for each firm must contain its street number. The street number must be clearly visible from the street right-of-way.

(5) Illumination. Illumination if used must not be blinking, fluctuating or moving. Light rays must shine only upon the sign and upon the property within the premises.

(6) Temporary signs if allowed under § 14-205(7) and in addition where an establishment is licensed to serve food, the restaurant owner may display a menu that is used in the restaurant and that is no larger than three (3) square feet:

(a) In the window of the restaurant; or

(b) Attached to a wall on a portion of a building occupied by the restaurant:

(i) if it is enclosed in a casing that is architecturally compatible with the building design and color; and

(ii) Extends no more than three inches (3") in depth away from the wall to which it is attached.

(7) Window signs. Window signs are allowed in all commercial districts, but must not exceed ten percent (10%) of the gross glass area including menus and:

(a) For public safety purposes where directed by the police must be located on areas of the window to protect the occupants or a police responder;

(b) As required by a licensing agency if the business is required to have a license to operate and the licensing agency restricts or requires window signs. (Ord. #110, Jan. 1990, as replaced by Ord. #2020-334, Dec. 2020 **Ch9_11-09-21**)

14-210. VC-1 Village Center Zone. Signs used for this zone are allowed as follows:

(1) Only one (1) sign of one hundred fifty (150) square feet must be permitted for centers less than five (5) acres and greater than one (1) acre.

(2) A maximum of four (4) signs of sixty (60) square feet must be permitted for complexes for five to fifty (5-50) acres.

(3) Individual businesses are allowed a face building mounted sign pursuant to § 14-210(1)(a) and (b). (Ord. #110, Jan. 1990, as replaced by Ord. #2020-334, Dec. 2020 **Ch9_11-09-21**)

14-211. Supplemental criteria in all districts. (1) Temporary signs. Temporary signs are subject to the following standards:

(a) Must not on one property exceed a total of sixteen (16) square feet in area;

(b) Must not be located within any public right-of-way whether dedicated or owned in fee simple or as an easement;

(c) Must only be located on property that is owned by the person whose sign it is and must not be placed on any utility pole, street light, similar object, or on public property;

(d) Must not be illuminated except as allowed in herein based on the district in which the sign is located; and

(e) Must be removed within ten (10) days after the election, sale, rental, lease or conclusion of event which is the basis for the sign under § 14-205(7) or if a different standard is required in § 14-205(7) must be removed within the time period required by that section.

(2) Bench signs. On street benches provided:

(a) The benches must not be higher than four feet (4') above ground;

- (b) The sign must be limited to fourteen (14) square feet in area;
- (c) The benches are not located closer than five feet (5') to any street right-of-way line;
- (d) Benches are located in a manner not to obstruct vision;
- (e) Must be included as part of the total permitted sign area of the premise on which it is located unless located in the public right-of-way.

(3) Integral signs. There are no restrictions on sign orientation. Integral sign must not exceed seventy-two (72) square feet per façade. Integral signs may be illuminated externally but must not be illuminated internally.

(4) Private traffic direction. Illumination of signs erected as required by the Manual on Uniform Traffic Control Devices must be in accordance with § 14-212. Horizontal directional signs flush with paved areas are exempt from these standards.

(5) Original art display. Original art displays are allowed provided that they meet the following requirements:

- (a) Must not be placed on a dwelling;
- (b) Must not extend more than six inches (6") from the plane of the wall upon which it is painted or to which it is affixed;
- (c) Must be no more than sixty-four (64) square feet in size, per lot or parcel;
- (d) The property owner must not be compensated for the display of the original art or the right to place the original art on site; and
- (e) Must not be illuminated. (Ord. #110, Jan. 1990, as replaced by Ord. #2020-334, Dec. 2020 **Ch9_11-09-21**)

14-212. Illumination. No sign can be erected or maintained without a permit or which, by use of lights or illumination, creates a distracting or hazardous condition to a motorist, pedestrian or the general public. In addition:

(1) No exposed reflective type bulb, par spot or incandescent lamp, which exceeds twenty-five (25) watts much be exposed to direct view from a public street or highway, but may be used for indirect light illumination of the display surface of a sign.

(2) When neon tubing is employed on the exterior or interior of a sign, the capacity of such tubing must not exceed three hundred (300) milliamperes rating for white tubing or one hundred (100) milliamperes for any colored tubing.

(3) When fluorescent tubes are used for the interior illumination of a sign, such illumination must not exceed:

- (a) Within residential districts: Illumination may not be used in residential districts.

(b) Within land use districts other than residential:

Illumination equivalent to eight hundred (800) milliamperere rating tubing behind a plexiglass face spaced at least nine inches (9"), center to center.

(4) An applicant for a permit to illuminate a sign must submit a plan to the town recorder showing the illumination plan including the effect of the illumination on any other property that might be affected by the light and how the illumination conforms aesthetically to the site and the neighborhood.

(a) The application must be reviewed to determine the effect on other properties and the aesthetics of the site and the neighborhood.

(b) The application must not be approved if the effect on other properties would create adverse results and must not be approved if the plan does not conform to the aesthetics of the neighborhood or the site.

(5) In a residential district, the property owner may use string lights or rope lights to decorate the residence as well as natural objects without a permit provided:

(a) String and rope lights must be designed to meet GCFI standards and installed in accordance with the National Electric Code.

(b) String light bulbs and rope lights must be of standard wattage and designed for outdoor use.

(c) String and rope light bulbs may only be white or clear.

(d) String and rope lights must be securely hung from a sturdy fixture.

(6) Outdoor lighting of eating or drinking establishments, such as restaurants, cafes, coffee houses, and bars must comply with this section and string lights and rope lights may only be used in outdoor patio areas. All string and rope lights must be turned off when the establishment is closed.

(7) Automated teller machines. Where Automated Teller Machine (ATM) signs are allowed, signs may be placed on the ATM subject to the following requirements:

(a) The sign must be an integral part of the ATM;

(b) May not exceed two and one-half (2 1/2) square feet in total size, including any border or background color. (Ord. #110, Jan. 1990, as replaced by Ord. #2020-334, Dec. 2020 *Ch9_11-09-21*)

14-213. Prohibited signs. The following signs or lights are prohibited which:

(1) Are of a size, location, movement, coloring, or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic or street sign or signal;

(2) Contain or consist of banners, posters, pennants, ribbons, streamers, strings of light bulbs, spinners, or other similarly moving devices or

signs which may move or swing as a result of wind pressure. These devices when not part of any sign are similarly prohibited, unless they are permitted specifically by other legislation;

(3) Have blinking, flashing or fluttering lights or other illuminating devices which exhibit movement, except digital billboards as permitted pursuant to this code;

(4) Are roof signs;

(5) Are visible from a limited access highway except as allowed as highway signs;

(6) Would be an original art display but does not have the permission of the owner of the property on which it is located or is graffiti; or

(7) Are portable signs that do not comply with the location, size or use restrictions of this code.

(8) Are graffiti or clutter signs.

(9) Are abandoned signs. (Ord. #110, Jan. 1990, as replaced by Ord. #2020-334, Dec. 2020 **Ch9_11-09-21**)

14-214. Procedures. Applications for a sign permit must be processed through the town recorder or building inspector and shall be accompanied by the following:

(1) An application fee in an amount set by resolution of the board of mayor and alderman.

(2) A scale drawing or a grid of the sign showing all faces and supporting structures and, for signs to be erected upon a building, a drawing of the building face, which drawing includes all existing and proposed signs;

(3) A site plan of the property showing width of business facade(s) and the locations and sizes of all existing and proposed signs;

(4) Samples of proposed colors and materials;

(5) A description of the type and amount of illumination. (Ord. #110, Jan 1990, as replaced by Ord. #2020-334, Dec. 2020 **Ch9_11-09-21**)

14-215. Nonconformity and modification. (1) Except as provided in § 14-216(3) below, signs lawfully in existence on the date the provisions of this code were first advertised, which do not conform to the provisions of this code, but which were in compliance with the applicable regulations at the time they were constructed, erected, affixed or maintained must be regarded as nonconforming.

(2) For the purpose of amortization, nonconforming signs may be continued from the effective date of this code for a period not to exceed the shorter of the period the signs were allowed under any prior code or ten (10) years, whichever is less.

(3) Signs which were unlawful under the prior ordinance and which do not conform to this code must be removed immediately.

(4) Temporary signs, including snipe signs and graffiti that do not comply with this code must be removed immediately. (as added by Ord. #93-159, Jan. 1994, and replaced by Ord. #2020-334, Dec. 2020 ***Ch9_11-09-21***)

14-216. Compliance. Any sign which is altered, relocated, replaced or must be brought immediately into compliance with all provisions of this code. (as added by Ord. #2020-334, Dec. 2020 ***Ch9_11-09-21***)

CHAPTER 3

STORMWATER ORDINANCE

SECTION

- 14-301. General provisions.
- 14-302. Definitions.
- 14-303. Waivers.
- 14-304. Stormwater system design; construction and permanent stormwater management.
- 14-305. Permanent stormwater management; operation, maintenance, and inspection.
- 14-306. Existing locations and ongoing developments.
- 14-307. Illicit discharges.
- 14-308. Enforcement.
- 14-309. Penalties.
- 14-310. Appeals.
- 14-311. Application fee.
- 14-312. Reimbursement of costs.
- 14-313. Payment of costs.

14-301. General provisions. 1. Purpose. It is the purpose of this chapter to:

a. Protect, maintain, and enhance the environment of the Town of Walden and the public health, safety and the general welfare of the citizens of the town, by controlling discharges of pollutants to the town's stormwater system and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the town;

(b) Enable the town to comply with the National Pollution Discharge Elimination System (NPDES) permit and applicable regulations, 40 CFR 122.26 for stormwater discharges;

(c) Allow the town 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:

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

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

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

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

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

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

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

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

(2) Administering entity. The Town of Walden shall administer the provisions of this chapter.

(3) Stormwater management ordinance. The intended purpose of this ordinance is to safeguard property and public welfare by regulating stormwater drainage and requiring temporary and permanent provisions for its control. It should be used as a planning and engineering implement to facilitate the necessary control of stormwater. (as added by Ord. #2003-234, April 2004, and replaced by Ord. #2013-295, Sept. 2013)

14-302. Definitions. For the purpose of this chapter, the following definitions shall apply:

Words used in the singular shall include the plural, and the plural shall include the singular; and words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

(1) "Administrative or civil penalties." Under the authority provided in Tennessee Code Annotated, § 68-221-1106, the town declares that any person violating the provisions of this chapter may be assessed a civil penalty by the

town of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.

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

(3) "Best Management Practices (BMPS)" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

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

(5) "Buffer zone" means a setback from the top of water body's bank of undisturbed vegetation, including trees, shrubs and herbaceous vegetation; enhanced or restored vegetation; or the re-establishment of native vegetation bordering streams, ponds, wetlands, springs, reservoirs or lakes, which exists or is established to protect those water bodies. The goal of the water quality buffer is to preserve undisturbed vegetation that is native to the streamside habitat in the area of the project. Vegetated, preferably native, water quality buffers protect water bodies by providing structural integrity and canopy cover, as well as stormwater infiltration, filtration and evapotranspiration. Buffer width depends on the size of a drainage area. Streams or other waters with drainage areas less than one (1) square mile will require buffer widths of thirty feet (30') minimum. Streams or other waters with drainage areas greater than one (1) square mile will require buffer widths of sixty feet (60') minimum. The 60-foot criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than thirty feet (30') at any measured location. The MS4 must develop and apply criteria for determining the circumstances under which these averages will be available. A determination that standards cannot be met may not be based solely on the difficulty or cost associated with implementation. Every attempt should be made for development and redevelopment activities not to take place within the buffer zone. If water quality buffer widths as defined above cannot be fully accomplished on-site, the MS4 must develop and apply criteria for determining the circumstances under which alternative buffer widths will be available. A determination that water quality buffer widths cannot be met on site may not be based solely on the difficulty or cost of

implementing measures, but must include multiple criteria, such as: type of project, existing land use and physical conditions that preclude use of these practices.

(6) "Buffer zone requirements" (a) "Construction" applies to all streams adjacent to construction sites, with an exception for streams designated as impaired or exceptional Tennessee waters, as designated by the Tennessee Department of Environment and Conservation ("TDEC"). A 30-foot natural riparian buffer zone adjacent to all streams at the construction site shall be preserved, to the maximum extent practicable, during construction activities at the site. The water quality buffer zone is required to protect waters of the state located within or immediately adjacent to the boundaries of the project, as identified using methodology from Standard Operating Procedures for Hydrologic Determinations (see rules to implement a certification program for Qualified Hydrologic Professionals, TN Rules Chapter 0400-40-17). Buffer zones are not primary sediment control measures and should not be relied on as such. Rehabilitation and enhancement of a natural buffer zone is allowed, if necessary, for improvement of its effectiveness of protection of the waters of the state. The buffer zone requirement only applies to new construction sites. The riparian buffer zone should be preserved between the top of stream bank and the disturbed construction area. The 30-foot criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than fifteen feet (15') at any measured location.

(b) Buffer zone requirements for discharges into impaired or exceptional waters: A 60-foot natural riparian buffer zone adjacent to the receiving stream designated as impaired or exceptional waters shall be preserved, to the maximum extent practicable, during construction activities at the site. The water quality buffer zone is required to protect waters of the state (e.g., perennial and intermittent streams, rivers, lakes, wetlands) located within or immediately adjacent to the boundaries of the project, as identified on a 7.5-minute USGS quadrangle map, or as determined by the director. Buffer zones are not sediment control measures and should not be relied upon as primary sediment control measures. Rehabilitation and enhancement of a natural buffer zone is allowed, if necessary, for improvement of its effectiveness of protection of the waters of the state. The buffer zone requirement only applies to new construction sites. The riparian buffer zone should be established between the top of stream bank and the disturbed construction area. The 60-foot criterion for the width of the buffer zone can be established on an

average width basis at a project, as long as the minimum width of the buffer zone is more than twenty-five feet (25') at any measured location.

(c) "Permanent" new development and significant redevelopment sites are required to preserve water quality buffers along waters within the MS4. Buffers shall be clearly marked on site development plans, grading permit applications, and/or concept plans. Buffer width depends on the size of a drainage area. Streams or other waters with drainage areas less than one (1) square mile will require buffer widths of thirty feet (30') minimum. Streams or other waters with drainage areas greater than one (1) square mile will require buffer widths of sixty feet (60') minimum. The 60-foot criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than thirty feet (30') at any measured location.

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

(8) "Common plan of development or sale" is broadly defined as any announcement or documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot. A common plan of development or sale identifies a situation in which multiple areas of disturbance are occurring on contiguous areas. This applies because the activities may take place at different times, on different schedules, by different operators.

(9) "Design storm event" means a hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a stormwater facility. The estimated design rainfall amounts, for any return period interval (i.e., 2-year, 5-year, 25-year, etc.) in terms of either 24-hour depths or intensities for any duration, can be found by accessing the following NOAA National Weather Service Atlas 14 data for Tennessee: http://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html?bkmrk=tn. Other data sources may be acceptable with prior written approval by TDEC Water Pollution Control.

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

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

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

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

(14) "Erosion Prevention and Sediment Control Plan (EPSCP)" means a written plan (including drawings or other graphic representations) that is designed to minimize the erosion and sediment runoff at a site during construction activities.

(15) "Hotspot" means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. The following land uses and activities are deemed stormwater hot spots, but that term is not limited to only these land uses:

- (a) Vehicle salvage yards and recycling facilities;
- (b) Vehicle service and maintenance facilities;
- (c) Vehicle and equipment cleaning facilities;
- (d) Fleet storage areas (bus, truck, etc.);
- (e) Industrial sites (included on Standard Industrial Classification code list);
- (f) Marinas (service and maintenance);
- (g) Public works storage areas;
- (h) Facilities that generate or store hazardous waste materials;
- (i) Commercial container nursery;
- (j) Restaurants and food service facilities;
- (k) Other land uses and activities as designated by an appropriate review authority.

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

(17) "Illicit discharge" means any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under § 14-307(2).

(18) "Improved sinkhole" is a natural surface depression that has been altered in order to direct fluids into the hole opening. Improved sinkhole is a type of injection well regulated under TDEC's Underground Injection Control (UIC) program. Underground injection constitutes an intentional disposal of waste waters in natural depressions, open fractures, and crevices (such as those commonly associated with weathering of limestone).

(19) "Inspector." An inspector is a person that has successfully completed (has a valid certification from) the "Fundamentals of Erosion

Prevention and Sediment Control Level I" course or equivalent course. An inspector performs and documents the required inspections, paying particular attention to time-sensitive permit requirements such as stabilization and maintenance activities. An inspector may also have the following responsibilities:

(a) Oversee the requirements of other construction-related permits, such as Aquatic Resources Alteration Permit (ARAP) or corps of engineers permit for construction activities in or around waters of the state;

(b) Update field SWPPP's;

(c) Conduct pre-construction inspection to verify that undisturbed areas have been properly marked and initial measurements have been installed; and

(d) Inform the permit holder of activities that may be necessary to gain or remain in compliance with the Construction General Permit (CGP) and other environmental permits.

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

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

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

(23) "Municipal Separate Storm Sewer System (MS4)" means the conveyances owned or operated by the town for the collection and transportation of stormwater, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains, and where the context indicates, it means the municipality that owns the separate storm sewer system.

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

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

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

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

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

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

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

(31) "Sedimentation" means soil particles suspended in stormwater that can settle in stream beds.

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

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

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

(35) "Stormwater entity" means the entity designated by the town to administer the stormwater management ordinance, and other stormwater rules and regulations adopted by the town.

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

(37) "Stormwater management facilities" means the drainage structures, conduits, ponds, ditches, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed of.

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

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

(39) "Stormwater Pollution Prevention Plan (SWPPP)" means a written plan that includes site map(s), an identification of construction/contractor activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants. It must be prepared and approved before construction begins. In order to effectively reduce erosion and sedimentation impacts, Best Management Practices (BMPs) must be designed, installed, and maintained during land disturbing activities. The SWPPP should be prepared in accordance with the current Tennessee Erosion and Sediment Control Handbook. The handbook is intended for use during the design and construction of projects that require erosion and sediment controls to protect waters of the state. It also aids in the development of SWPPPs and other reports, plans, or specifications required when participating in Tennessee's water quality regulations. All SWPPP's shall be prepared and updated in accordance with section 3 of the General NPDES Permit for Discharges of Stormwater Associated with Construction Activities.

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

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

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

(43) "Waste site" means an area where waste material from a construction site is deposited. When the material is erodible, such as soil, the site must be treated as a construction site.

(44) "Water quality buffer" see "Buffer."

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

(46) "Watershed" means all the land area that contributes runoff to a particular point along a waterway.

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

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

(49) "Wet weather conveyances" are man-made or natural watercourses, including natural watercourses that have been modified by channelization, that flow only in direct response to precipitation runoff in their immediate locality and whose channels are above the groundwater table and are not suitable for drinking water supplies; and in which hydrological and biological analyses indicate that, under normal weather conditions, due to naturally occurring ephemeral or low flow, there is not sufficient water to support fish or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two (2) months. (Rules and Regulations of the State of Tennessee, chapter 1200-4-3-.04(3)). (as added by Ord. #2003-234, April 2004, and replaced by Ord. #2013-295, Sept. 2013)

14-303. Waivers. (1) General. No waivers will be granted any construction or site work project. All construction and site work shall provide for stormwater management as required by this ordinance. However, alternatives to the 2010 NPDES General Permit for Discharges from Small Municipal Storm Sewer Systems primary requirement for on-site permanent stormwater management may be considered if:

(a) Management measures cannot be designed, built and maintained to infiltrate, evapotranspire, harvest and/or use, at a minimum, the first inch of every rainfall event preceded by seventy-two (72) hours of no measurable precipitation. This first inch of rainfall must be one hundred percent (100%) managed with no discharge to surface waters.

(b) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this chapter. Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the town.

(2) Downstream damage, etc. prohibited. In order to receive consideration, the applicant must demonstrate to the satisfaction of the Town of Walden that the proposed alternative will not lead to any of the following conditions downstream:

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

(b) Degradation of biological functions or habitat;

- (c) Accelerated streambank or streambed erosion or siltation;
- (d) Increased threat of flood damage to public health, life or property.

(3) Grading permit not to be issued where alternatives requested. No grading permit shall be issued where an alternative has been requested until the alternative is approved. If no alternative is approved, the plans must be resubmitted with a stormwater management plan that meets the primary requirement for on-site stormwater management. (as added by Ord. #2003-234, April 2004, and replaced by Ord. #2013-295, Sept. 2013)

14-304. Stormwater system design; construction and permanent stormwater management. (1) MS4 stormwater design or BMP manuals.

(a) Adoption. The town adopts as its MS4 stormwater design and best management practices (BMP) manuals for stormwater management, construction and permanent, the following publications, which are incorporated by reference in this ordinance as if fully set out herein:

(i) TDEC Erosion Prevention and Sediment Control Handbook; most current edition.

(ii) The Nashville-Davidson County Metro Stormwater Management Manual (Best Management Practices (BMP) Manual -Volume 4) or any manual issued by TDEC (Note: this selection is provided as a suggestion only in cooperation with the University of Tennessee's Water Resources Center.)

(iii) A collection of MS4 approved BMPs developed or collected by the MS4 that comply with the goals of the MS4 permit and/or the CGP.

(b) The town's BMP manual(s) include a list of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each stormwater practice. These include town approved BMPs for permanent stormwater management including green infrastructure BMPs.

(c) The town manual(s) may be updated and expanded from time to time, at the discretion of the Town of Walden, based on improvements in engineering, science, monitoring and local maintenance experience, or changes in federal or state law or regulation. Stormwater facilities that are designed, constructed and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.

(2) Land development. This section shall be applicable to all land development, including, but not limited to, site plan applications, subdivision

applications, land disturbance applications and grading applications. These standards apply to any new development or redevelopment site that meets one (1) or more of the following criteria:

(a) One (1) acre or more:

(i) New development that involves land development activities of one (1) acre or more;

(ii) Redevelopment that involves other land development activity of one (1) acre or more;

(b) Projects or developments of less than one (1) acre of total land disturbance may also be required to obtain authorization under this ordinance if:

(i) The Town of Walden has determined that the stormwater discharge from a site is causing, contributing to, or is likely to contribute to a violation of a state water quality standard;

(ii) The Town of Walden has determined that the stormwater discharge is, or is likely to be a significant contributor of pollutants to waters of the state;

(iii) Changes in state or federal rules require sites of less than one (1) acre that are not part of a larger common plan of development or sale to obtain a stormwater permit;

(iv) Any new development or redevelopment, regardless of size, that is defined by the Town of Walden to be a hotspot land use; or

(v) Minimum applicability criteria set forth in item (a) above if such activities are part of a larger common plan of development, even multiple, that is part of a separate and distinct land development activity that may take place at different times on different schedules.

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

(3) Submittal of a copy of the NOC, SWPPP and NOT to the local MS4.

Permittees who discharge stormwater through an NPDES-permitted MS4 who are not exempted in section 1.4.5 (Permit Coverage through Qualifying Local Program) of the Construction General Permit (CGP) must provide proof of coverage under the Construction General Permit (CGP); submit a copy of the Stormwater Pollution Prevention Plan (SWPPP); and at project completion, a copy of the signed Notice of Termination (NOT) to the Town of Walden. Permitting status of all permittees covered (or previously covered) under this

general permit as well as the most current list of all MS4 permits is available at the TDEC's Data Viewer web site.

Copies of additional applicable local, state or federal permits (i.e., ARAP, etc.) must also be provided upon request.

If requested, these permits must be provided before the issuance of any land disturbance permit or the equivalent.

(4) Stormwater Pollution Prevention Plan (SWPPP) for construction stormwater management. The applicant must prepare a storm water pollution prevention plan for all construction activities that complies with subsection (5) below. The purpose of this plan is to identify construction/contractor activities that could cause pollutants in the stormwater, and to describe measures or practices to control these pollutants during project construction.

(5) Stormwater pollution prevention plan requirements. The erosion prevention and sediment control plan component of the SWPPP shall accurately describe the potential for soil erosion and sedimentation problems resulting from land disturbing activity and shall explain and illustrate the measures that are to be taken to control these problems. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and potential for off-site damage. If necessary, the plan shall be phased so that changes to the site during construction that alter drainage patterns or characteristics will be addressed by an appropriate phase of the plan. The plan shall be sealed by a registered professional engineer or landscape architect licensed in the state of Tennessee. The plan shall also conform to the requirements found in the MS4 BMP manual, and shall include at least the following:

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

(b) A topographic map with contour intervals of five feet (5') or less showing present conditions and proposed contours resulting from land disturbing activity.

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

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

(e) Stands of existing trees as they are to be preserved upon project completion, specifying their general location on the property. Differentiation shall be made between existing trees to be preserved, trees to be removed and proposed planted trees. Tree protection measures must be identified, and the diameter of the area involved must also be identified on the plan and shown to scale. Information shall be supplied

concerning the proposed destruction of exceptional and historic trees in setbacks and buffer strips, where they exist. Complete landscape plans may be submitted separately. The plan must include the sequence of implementation for tree protection measures.

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

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

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

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

(j) Existing and proposed drainage network.

(k) Proposed drain tile or waterway sizes.

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

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

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

(o) Specific details for the construction of stabilized construction entrance/exits, concrete washouts, and sediment basins for controlling erosion; road access points; eliminating or keeping soil, sediment, and debris on streets and public ways at a level acceptable to the town. Soil, sediment, and debris brought onto streets and public ways must be removed by the end of the work day to the satisfaction of the town.

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

(p) Proposed structures. Location and identification of any proposed additional buildings, structures or development on the site.

(q) A description of on-site measures to be taken to recharge surface water into the ground water system through runoff reduction practices.

(r) Specific details for construction waste management. Construction site operators shall control waste such as discarded building materials, concrete truck washout, petroleum products and petroleum related products, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality. When the material is erodible, such as soil, the site must be treated as a construction site.

(6) General design performance criteria for permanent stormwater management. The following performance criteria shall be addressed for permanent stormwater management at all development sites:

(a) Site design standards for all new and redevelopment require, in combination or alone, management measures that are designed, built and maintained to infiltrate, evapotranspire, harvest and/or use, at a minimum, the first inch of every rainfall event preceded by seventy-two (72) hours of no measurable precipitation. This first inch of rainfall must be one hundred percent (100%) managed with no discharge to surface waters.

(b) Limitations to the application of runoff reduction requirements include, but are not limited to:

(i) Where a potential for introducing pollutants into the groundwater exists, unless pretreatment is provided;

(ii) Where pre-existing soil contamination is present in areas subject to contact with infiltrated runoff;

(iii) Presence of sinkholes or other karst features.

(c) Pre-development infiltration capacity of soils at the site must be taken into account in selection of runoff reduction management measures.

(d) Incentive standards for redeveloped sites. A ten percent (10%) reduction in the volume of rainfall to be managed for any of the following types of development. Such credits are additive such that a maximum reduction of fifty percent (50%) of the standard in the paragraph above is possible for a project that meets all five (5) criteria:

(i) Redevelopment;

(ii) Brownfield redevelopment;

(iii) High density (>7 units per acre);

(iv) Vertical density, (Floor to Area Ratio (FAR) of 2 or >18 units per acre); and

(v) Mixed use and transit oriented development (within one-half (1/2) mile of transit).

(e) For projects that cannot meet one hundred percent (100%) of the runoff reduction requirement unless subject to the incentive standards, the remainder of the stipulated amount of rainfall must be treated prior to discharge with a technology documented to remove eighty percent (80%) total suspended solids (TSS) unless an alternative provided under this ordinance is approved. The treatment technology must be designed, installed and maintained to continue to meet this performance standard.

(f) For projects that cannot meet one hundred percent (100%) of the runoff reduction requirements, the Town of Walden may allow runoff reduction measures to be implemented at another location within the same USGS 12-digit Hydrologic Unit Code (HUC) as the original project. Off-site mitigation must be a minimum of 1.5 times the amount of water not managed on site. The off-site mitigation location (or alternative location outside the 12-digit HUC) and runoff reduction measures must be approved by the Town of Walden. The town shall identify priority areas within the watershed in which mitigation projects can be completed. The town must create an inventory of appropriate mitigation projects, and develop appropriate institutional standards and management systems to value, evaluate and track transactions. Mitigation can be used for retrofit or redevelopment projects, but should be avoided in areas of new development.

(g) To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the MS4 BMP manual.

(h) Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.

(i) Stormwater discharges from hot spots may require the application of specific structural BMPs and pollution prevention practices. In addition, stormwater from a hot spot land use may not be infiltrated.

(j) Prior to or during the site design process, applicants for land disturbance permits shall consult with the Town of Walden to determine if they are subject to additional stormwater design requirements.

(k) The calculations for determining peak flows as found in the MS4 BMP manual shall be used for sizing all stormwater facilities.

(7) Minimum volume control requirements. (Note: the volume control requirements are by the MS4 and not the TDEC MS4 permit). In accordance with § 14-301(1)(c)(iii) the MS4 may establish standards to regulate the quantity of stormwater discharged, therefore:

(a) Stormwater designs shall meet the multi-stage storm frequency storage requirements as identified in the MS4 BMP manual.

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

(8) Permanent stormwater management plan requirements. The stormwater management plan shall include sufficient information to allow the Town of Walden to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. To accomplish this goal the stormwater management plan shall include the following:

(a) A topographic base map of the site, which extends a minimum of one hundred feet (100') beyond the limits of the proposed development and indicates:

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

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

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

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

(b) Proposed structural and non-structural BMPs.

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

(d) Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in the MS4 BMP manual. These calculations must show that the

proposed stormwater management measures are capable of controlling runoff from the site in compliance with this chapter and the guidelines of the MS4 BMP manual. Such calculations shall include:

- (i) A description of the design storm frequency, duration, and intensity where applicable;
- (ii) Time of concentration;
- (iii) Soil curve numbers or runoff coefficients including assumed soil moisture conditions;
- (iv) Peak runoff rates and total runoff volumes for each watershed area;
- (v) Infiltration rates, where applicable;
- (vi) Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;
- (vii) Flow velocities;
- (viii) Data on the increase in rate and volume of runoff for the design storms referenced in the MS4 BMP manual; and
- (ix) Documentation of sources for all computation methods and field test results.

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

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

(10) Buffers and buffer zones. Buffer and buffer zones shall be those buffers and buffer zones as those terms are defined in § 14-302(5) and (6), above, and shall meet the requirements contained in those provisions.

- (a) Construction. (i) Construction requires buffer zone widths of a minimum of thirty feet (30'). The thirty foot (30') criterion for the width of the buffer zone can be established on an average width basis. As long as the minimum width of the buffer zone is

fifteen feet (15'). The buffer zone shall meet all the other applicable requirements of § 14-302(5) and (6).

(ii) Construction on impaired or exceptional waters requires buffer zone widths of a minimum of sixty feet (60'). The sixty feet (60') criterion for the width of the buffer zone can be established on an average basis at a project as long as the minimum width of the buffer is more than thirty feet (30') at any measured location. The buffer zone shall meet all the other applicable requirements of § 14-302(5) and (6).

(b) Permanent. (i) More than one (1) square mile drainage area will require buffer zones of a minimum of sixty feet (60'). The sixty foot (60') criterion for the width of the buffer zone can be established on an average width basis, as long as the minimum width of the buffer zone is more than thirty feet (30') at any measured location.

(ii) Less than one (1) square mile drainage area will require buffer zones of a minimum of thirty feet (30'). The thirty foot (30') criterion for the width of the buffer zone can be established on an average width basis, as long as the minimum width of the buffer zone is more than thirty feet (30') at any measured location. The buffer zone shall meet all the other applicable requirements of § 14-302(5) and (6). (as added by Ord. #2003-234, April 2004, and replaced by Ord. #2013-295, Sept. 2013)

14-305. Permanent stormwater management; operation, maintenance, and inspection. (1) As built plans. All applicants are required to submit actual as built plans for any structures located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be sealed by a registered professional engineer licensed to practice in Tennessee. A final inspection by the Town of Walden is required before any performance security or performance bond will be released. The town shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or performance bond on the completion of various stages of development. In addition, occupation permits shall not be granted until corrections to all BMPs have been made and accepted by the town.

(2) Landscaping and stabilization requirements. (a) Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall stabilize. Stabilization measures shall be initiated as soon as possible in portions of the site where construction activities have temporarily or permanently ceased.

Temporary or permanent soil stabilization at the construction site (or a phase of the project) must be completed not later than fifteen (15) days after the construction activity in that portion of the site has temporarily or permanently ceased. In the following situations, temporary stabilization measures are not required:

(i) Where the initiation of stabilization measures is precluded by snow cover or frozen ground conditions or adverse soggy ground conditions, stabilization measures shall be initiated as soon as practicable; or

(ii) Where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within fifteen (15) days.

(b) Permanent stabilization with perennial vegetation (using native herbaceous and woody plants where practicable) or other permanently stable, non-eroding surface shall replace any temporary measures as soon as practicable. Unpacked gravel containing fines (silt and clay sized particles) or crusher runs will not be considered a non-eroding surface.

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

(i) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.

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

(iii) Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.

(iv) In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and

what practices will be employed to ensure that adequate vegetative cover is preserved.

(3) Inspection of stormwater management facilities. Periodic inspections of facilities shall be performed, documented, and reported in accordance with this chapter, as detailed in § 14-306.

(4) Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at least three (3) years. These records shall be made available to the town during inspection of the facility and at other reasonable times upon request.

(5) Failure to meet or maintain design or maintenance standards. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this chapter, the town, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the town shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the town may take necessary corrective action. The cost of any action by the town under this section shall be charged to the responsible party. (as added by Ord. #2003-234, April 2004, and replaced by Ord. #2013-295, Sept. 2013)

14-306. Existing locations and ongoing developments. (1) On-site stormwater management facilities maintenance agreement.¹

(a) Where the stormwater facility is located on property that is subject to a development agreement, and the development agreement provides for a permanent stormwater maintenance agreement that runs with the land, the owners of property must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owners and all subsequent property owners and their lessees and assigns, including but not limited to, homeowner associations or other groups or entities.

¹Appendix A to Ordinance #2013-295 contains a sample maintenance agreement that runs with the land. Appendix A is of record in the recorder's office. Numerous other maintenance agreements are available from MTAS and Tennessee cities.

(b) The maintenance agreement shall:

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

(ii) Provide for a periodic inspection by the property owners in accordance with the requirements of subsection (5) below for the purpose of documenting maintenance and repair needs and to ensure compliance with the requirements of this ordinance. The property owners will arrange for this inspection to be conducted by a registered professional engineer licensed to practice in the state of Tennessee, who will submit a signed written report of the inspection to the Town of Walden. It shall also grant permission to the town to enter the property at reasonable times and to inspect the stormwater facility to ensure that it is being properly maintained.

(iii) Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, cutting and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other stormwater facilities. It shall also provide that the property owners shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the MS4 BMP manual.

(iv) Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the Town of Walden.

(v) Provide that if the property is not maintained or repaired within the prescribed schedule, the Town of Walden shall perform the maintenance and repair at its expense, and bill the same to the property owner. The maintenance agreement shall also provide that the Town of Walden cost of performing the maintenance shall be a lien against the property.

(2) Existing problem locations--no maintenance agreement.

(a) The Town of Walden shall in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problems affecting or caused by such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance. Discharges

from existing BMPs that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit.

(b) **Inspection of existing facilities.** The town may, to the extent authorized by state and federal law, enter and inspect private property for the purpose of determining if there are illicit non-stormwater discharges, and to establish inspection programs to verify that all stormwater management facilities are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the town's NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.

(3) **Owner/operator inspections--generally.** The owners and/or the operators of stormwater management practices shall:

(a) Perform routine inspections to ensure that the BMPs are properly functioning. These inspections shall be conducted on an annual basis, at a minimum. These inspections shall be conducted by a person familiar with control measures implemented at a site. Owners or operators shall maintain documentation of these inspections. The Town of Walden may require submittal of this documentation.

(b) Perform comprehensive inspection of all stormwater management facilities and practices. These inspections shall be conducted once every five (5) years, at a minimum. Such inspections must be conducted by either a professional engineer or landscape architect, licensed in the state of Tennessee. Complete inspection reports for these five year inspections shall include:

- (i) Facility type;
- (ii) Inspection date;
- (iii) Latitude and longitude and nearest street address;
- (iv) BMP owner information (e.g. name, address, phone number, fax, and e-mail);

(v) A description of BMP condition, including: vegetation and soils; inlet and outlet channels and structures; embankments, slopes, and safety benches; spillways, weirs, and other control structures; and any sediment and debris accumulation;

(vi) Photographic documentation of BMPs; and

(vii) Specific maintenance items or violations that need to be corrected by the BMP owner along with the deadlines and reinspection dates.

(c) Owners or operators shall maintain documentation of these inspections. The Town of Walden may require submittal of this documentation.

(4) Requirements for all existing locations and ongoing developments.

The following requirements shall apply to all locations and development at which land disturbing activities have occurred previous to the enactment of this ordinance:

(a) Denuded areas must be vegetated or covered under the standards and guidelines specified in § 14-305(2)(c)(i), (ii), (iii) and on a schedule acceptable to the town.

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

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

(d) Trash, junk, rubbish, etc. shall be cleared from drainage ways.

(e) Stormwater runoff shall, at the discretion of the town, be controlled to the maximum extent practicable to prevent its pollution.

Such control measures may include, but are not limited to, the following:

(i) Ponds

(A) Detention pond

(B) Extended detention pond

(C) Wet pond

(D) Alternative storage measures

(ii) Constructed wetlands

(iii) Infiltration systems

(A) Infiltration/percolation trench

(B) Infiltration basin

(C) Drainage (recharge) well

(D) Porous pavement

(iv) Filtering systems

(A) Catch basin inserts/media filter

- (B) Sand filter
- (C) Filter/absorption bed
- (D) Filter and buffer strips
- (v) Open channel
 - (A) Swale

(5) Corrections of problems subject to appeal. Corrective measures imposed by the Town of Walden under this section are subject to appeal under § 14-310 of this chapter. (as added by Ord. #2003-234, April 2004, and replaced by Ord. #2013-295, Sept. 2013)

14-307. Illicit discharges. (1) Scope. This section shall apply to all water generated on developed or undeveloped land entering the town's separate storm sewer system.

(2) Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the MS4 any discharge that is not composed entirely of stormwater or any discharge that flows from stormwater facility that is not inspected in accordance with § 14-306 shall be an illicit discharge. Non-stormwater discharges shall include, but shall not be limited to, sanitary wastewater, car wash wastewater, radiator flushing disposal, spills from roadway accidents, carpet cleaning wastewater, effluent from septic tanks, improper oil disposal, laundry wastewater/gray water, improper disposal of auto and household toxics. The commencement, conduct or continuance of any non-stormwater discharge to the MS4 is prohibited except as described as follows:

- (a) Uncontaminated discharges from the following sources:
 - (i) Water line flushing or other potable water sources;
 - (ii) Landscape irrigation or lawn watering with potable water;
 - (iii) Diverted stream flows;
 - (iv) Rising ground water;
 - (v) Groundwater infiltration to storm drains;
 - (vi) Pumped groundwater;
 - (vii) Foundation or footing drains;
 - (viii) Crawl space pumps;
 - (ix) Air conditioning condensation;
 - (x) Springs;
 - (xi) Non-commercial washing of vehicles;
 - (xii) Natural riparian habitat or wetland flows;
 - (xiii) Swimming pools (if Dechlorinated--typically less than one (1) PPM chlorine);
 - (xiv) Firefighting activities;
 - (xv) Any other uncontaminated water source.

(b) Discharges specified in writing by the town as being necessary to protect public health and safety.

(c) Dye testing is an allowable discharge if the town has so specified in writing.

(d) Discharges authorized by the Construction General Permit (CGP), which comply with section 3.5.9 of the same:

(i) Dewatering of work areas of collected stormwater and ground water (filtering or chemical treatment may be necessary prior to discharge);

(ii) Waters used to wash vehicles (of dust and soil, not process materials such as oils, asphalt or concrete) where detergents are not used and detention and/or filtering is provided before the water leaves site;

(iii) Water used to control dust in accordance with CGP section 3.5.5;

(iv) Potable water sources including waterline flushings from which chlorine has been removed to the maximum extent practicable;

(v) Routine external building washdown that does not use detergents or other chemicals;

(vi) Uncontaminated groundwater or spring water; and

(vii) Foundation or footing drains where flows are not contaminated with pollutants (process materials such as solvents, heavy metals, etc.).

(3) Prohibition of illicit connections. The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(4) Reduction of stormwater pollutants by the use of best management practices. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMPs necessary to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. Discharges from existing BMPs that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit.

(5) Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into, the MS4, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the Town of Walden in person or by telephone, fax, or email, no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the Town of Walden within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

(6) No illegal dumping allowed. No person shall dump or otherwise deposit outside an authorized landfill, convenience center or other authorized garbage or trash collection point, any trash or garbage of any kind or description on any private or public property, occupied or unoccupied, inside the town. (as added by Ord. #2003-234, April 2004, and replaced by Ord. #2013-295, Sept. 2013)

14-308. Enforcement. (1) Enforcement authority. The Town of Walden shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this section. Authorized measures include:

(a) Verbal warnings. At a minimum, verbal warnings must specify the nature of the violation and the required corrective action.

(b) Written notices. Written notices must stipulate the nature of the violation and the required corrective action, with deadlines for taking such action.

(c) Citations with administrative penalties. The MS4 has the authority to assess monetary penalties, which may include civil and administrative penalties.

(d) Stop work orders. Stop work orders that require construction activities to be halted, except for those activities directed at cleaning up, abating discharge, and installing appropriate control measures.

(e) Withholding of plan approvals or other authorizations. Where a facility is in noncompliance, the MS4's own approval process

affecting the facility's ability to discharge to the MS4 can be used to abate the violation.

(f) **Additional measures.** The MS4 may also use other escalated measures provided under local legal authorities. The MS4 may perform work necessary to improve erosion control measures and collect the funds from the responsible party in an appropriate manner, such as collecting against the project's bond or directly billing the responsible party to pay for work and materials.

(2) **Notification of violation.** (a) **Verbal warning.** Verbal warning may be given at the discretion of the inspector when it appears the condition can be corrected by the violator within a reasonable time, which time shall be approved by the inspector.

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

(c) **Consent orders.** The Town of Walden is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to subsections (d) and (e) below.

(d) **Show cause hearing.** The Town of Walden may order any person who violates this chapter or permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.

(e) **Compliance order.** When the Town of Walden finds that any person has violated or continues to violate this chapter or a permit or order issued thereunder, it may issue an order to the violator directing that, following a specific time period, adequate structures or devices be

installed and/or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.

(f) Cease and desist and stop work orders. When the Town of Walden finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder, the town may issue a stop work order or an order to cease and desist all such violations and direct those persons in noncompliance to:

(i) Comply forthwith; or

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

(g) Suspension, revocation or modification of permit. The Town of Walden may suspend, revoke or modify the permit authorizing the land development project or any other project of the applicant or other responsible person within the town. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated upon such conditions as the Town of Walden may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

(h) Conflicting standards. Whenever there is a conflict between any standard contained in this chapter and in the BMP manual adopted by the town under this ordinance, the strictest standard shall prevail. (as added by Ord. #2003-234, April 2004, and replaced by Ord. #2013-295, Sept. 2013)

14-309. Penalties. (1) Violations. Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the town, shall be guilty of a civil offense.

(2) Penalties. Under the authority provided in Tennessee Code Annotated, § 68-221-1106, the town declares that any person violating the provisions of this chapter may be assessed a civil penalty by the Town of Walden of not less than fifty dollars (\$50.00) and not more than five thousand dollars

(\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.

(3) Measuring civil penalties. In assessing a civil penalty, the Town of Walden may consider:

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

(4) Recovery of damages and costs. In addition to the civil penalty in subsection (2) above, 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 chapter, 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 this chapter.

(5) Referral to TDEC. Where the town has used progressive enforcement to achieve compliance with this ordinance, and in the judgment of the town has not been successful, the town may refer the violation to TDEC. For the purposes of this provision, "progressive enforcement" shall mean two (2) follow-up inspections and two (2) warning letters. In addition, enforcement referrals to TDEC must include, at a minimum, the following information:

- (a) Construction project or industrial facility location;
- (b) Name of owner or operator;
- (c) Estimated construction project or size or type of industrial activity (including SIC code, if known);
- (d) Records of communications with the owner or operator regarding the violation, including at least two (2) follow-up inspections, two (2) warning letters or notices of violation, and any response from the owner or operator.

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

(7) Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted. (as added by Ord. #2003-234, April 2004, and replaced by Ord. #2013-295, Sept. 2013)

14-310. Appeals. Pursuant to Tennessee Code Annotated, § 68-221-1106(d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this chapter may appeal said penalty or damage assessment to the town's governing body.

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

(2) Public hearing. Upon receipt of an appeal, the town's governing body, or other appeals board established by the town's governing body shall hold a public hearing within thirty (30) days. Ten (10) days prior notice of the time, date, and location of said hearing shall be published in a daily newspaper of general circulation. Ten (10) days' notice by registered mail shall also be provided to the aggrieved party, such notice to be sent to the address provided by the aggrieved party at the time of appeal. The decision of the town's governing body shall be final.

(3) Appealing decisions of the town's governing body. 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. #2003-234, April 2004, and replaced by Ord. #2013-295, Sept. 2013)

14-311. Application fee. In connection with any review of a permit application submitted pursuant to this title, including but not limited to land disturbance applications, the town shall be entitled to seek reimbursement from any applicant of the actual costs incurred by the town in connection with the town's review and approval of the respective application. The amount paid to the town as reimbursement pursuant to this section shall not exceed five thousand dollars (\$5,000.00). (as added by Ord. #Ord. #2014-297, Jan. 2014)

14-312. Reimbursement of costs. In addition to the payment of the application fee as set forth more particularly in § 14-311, the town shall also be entitled to seek reimbursement from any land owner and/or applicant that has obtained a land disturbance permit pursuant to this title to cover actual costs

incurred by the town in connection with the monitoring and/or inspection of any project by town officials or consultants in order to insure compliance with the terms of the land disturbance permit and/or the requirements of this title. The amount paid to the town as reimbursement pursuant to this section shall not exceed five thousand dollars (\$5,000.00) in the aggregate for any single project. (as added by Ord. #Ord. #2014-297, Jan. 2014)

14-313. Payment of costs. (1) All actual charges to be reimbursed to the town pursuant to §§ 14-311 and 14-312 shall be paid within fifteen (15) days from the date of billing by the town. In the event the reimbursement charges are not paid timely, any permit issued by the town, the town's stormwater board and/or Hamilton County shall become void.

(2) The reimbursements required under this chapter are not deemed to be a tax, but are to offset actual expenses incurred by the town related to an owner, developer, and applicant seeking development of lands within the town. (as added by Ord. #Ord. #2014-297, Jan. 2014)