

RESOLUTION 23-25

**A RESOLUTION TO AMEND THE STORMWATER
EROSION AND SEDIMENT CONTROL REGULATIONS OF
HAMBLLEN COUNTY, TENNESSEE
MAY 18, 2023**

WHEREAS, uncontrolled stormwater drainage and discharge have a significant, adverse impact on the health, safety, and general welfare of the residents of Hamblen County and an adverse impact on the natural environment by carrying pollutants into the receiving waters within the community; and

WHEREAS, Hamblen County is required by federal law, particularly 33 U.S.C. 1342(p) and 40 CFR 122.26, to obtain a National Pollutant Discharge Elimination System (NPDES) permit through the Tennessee Department of Environment and Conversation (TDEC) to reduce stormwater flows and associated pollutants discharged into waterways through Hamblen County's stormwater system and drainage ways; and

WHEREAS, the NPDES permit requires Hamblen County to impose controls on future and existing development necessary to reduce the discharge of pollutants in stormwater to the maximum reasonable extent using management practices, control techniques and system design and engineering methods, and such other provisions which are determined to be appropriate for the control of such pollutants;

NOW THEREFORE, BE IT RESOLVED that the Hamblen County Board of Commissioners does hereby approve the Erosion and Sediment Control regulation amendment and shall read as follows:

Section I. Introduction/ Purpose

During the construction process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. In addition, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat. As a result, the purpose of this local regulation is to safeguard persons, protect property, and prevent damage to the environment in Hamblen County. This resolution will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in Hamblen County.

Section II. Definitions

ARAP – Aquatic Resource Alteration Permit issued by TDEC.

Authorized Enforcement Agency – Employees or designees of the Hamblen County Planning Department designated to enforce this resolution.

Clearing - Any activity that removes the vegetative surface cover.

Commission – Hamblen County Planning Commission

Construction Activity – Activities subject to NPDES construction permits. NPDES SW Phase II permits are required for construction projects resulting in land disturbance of one (1) acre or more.

Drainage Way – A channel which conveys surface runoff throughout a site

Erosion- The detachment of a portion of the soil profile or soil surface which can occur by either the impact of raindrops, or by the shear forces of water following across the soil surface.

Erosion and Sediment Control Plan - A set of plans prepared by or under the direction of a licensed professional engineer, or other person allowable under State of Tennessee law, indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during construction.

Exceptional Waters of the State - Surface waters of the State of Tennessee that satisfy the characteristics as listed in Rule 1200-4-3-.06 of the official compilation - rules and regulations of the State of Tennessee. Characteristics include waters with exceptional biological diversity or other waters with outstanding ecological or recreational value as determined by the State of Tennessee.

Grading - Excavation or fill of material, including the resulting conditions thereof.

Impaired Waters of the State - Any segment of surface water that has been identified by the State of Tennessee as failing to support a classified use. The State of Tennessee periodically compiles a list of such waters known as the 303(d) List.

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

- a. such minor land disturbing activities as home gardens and individual home landscaping, repairs and maintenance work.
- b. construction, installation or maintenance of utility lines and individual service connections, or septic lines and drainage fields.

c. emergency work to protect life, limb or property.

NOC – Notice of Coverage. Construction General Permit issued by TDEC for construction stormwater discharge from individual projects, or projects that are part of a common larger development, with land disturbance of one (1) acre or more.

NPDES - National Pollutant Discharge Elimination System-The part of the clean water act which requires point source discharges to obtain permits. These permits, referred to as NPDES permits are administered by the Washington State Department of Ecology.

Perimeter Control - A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin

Person – Is defined as any individual, association, organization, partnership, firm, corporation, municipality, or other entity recognized by law and acting as either the owner or as the owner’s agent.

Phasing - Clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

Responsible Party - A person who has received training and is competent to inspect and maintain erosion and sediment control practices.

Sediment Control - Measures that prevent eroded sediment from leaving the site.

Site - A parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

Site Development Permit- A permit issued by the state or county for the construction or alteration of ground improvements and structures for the control of erosion, runoff, and grading.

Stabilization - The use of practices that prevent exposed soil from eroding.

Start of Construction - The first land-disturbing activity associated with a development, including land preparation such as clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

Stormwater Staff – Employees of the Hamblen County Stormwater Department, including Administrative Assistant, Department Manager and/or Stormwater Coordinator, or any other person employed by the Hamblen County Stormwater Department. (i.e., staff)

SWPPP - Stormwater Pollution Prevention Plan-This is a combination of erosion and sediment control plan and a narrative in accordance with the State of Tennessee’s current Construction General Permit.

TDEC – Tennessee Department of Environment and Conservation

Watercourse - Any body of water, including, but not limited to lakes, ponds, rivers, streams, and bodies of water delineated by Hamblen County or Waters of the State.

Waters of the State - Defined in the Tennessee Water Quality Control Act and 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 to effect a junction with natural surface or underground waters.

Waterway - A channel, not a Waters of the State that directs surface runoff to a watercourse or to the public storm drain.

Section III. Permits

- A. No person shall be granted a local site development permit for land-disturbing activity that would require the uncovering of *one acre or more* without first receiving the approval and obtaining the necessary permit as required by the State of Tennessee and the submission of an Erosion and Sediment Control Plan to the Hamblen County Planning Commission for approval, if required.

Project developments of less than one acre of land disturbance are required to obtain authorization under this permit if the construction activities at the site are part of a larger common plan of development or sale that would disturb one acre or more of land.

Projects or developments of less than one acre of total land disturbance may also be required to obtain authorization under this permit if:

1. The storm water discharge from the site is causing, contributing to, or is likely to contribute to a violation of a state water quality standard;
2. The storm water discharge is, or is likely to be a significant contributor of pollutants to waters of the state, or
3. Changes in state or federal rules require sites of less than one acre to obtain a storm water permit.

- B. No site development permit is required for the following activities:

1. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
2. Existing nursery and agricultural operations conducted as a permitted main or accessory use.

- C. Each application shall bear the name(s) and address(es) of the owner or developer of the site and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm and shall be accompanied by any and all required Stormwater Management and filing fees.
- D. Each application shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the Erosion and Sediment Control Plan and that the responsible party shall be on site on all days when construction or grading activity takes place.
- E. The applicant will be required to file with Hamblen County a faithful performance bond, or other improvement security in an amount deemed sufficient by the Commission to cover all costs of storm drain and stormwater management improvements, soil stabilization, maintenance of improvements for such period as specified by Hamblen County, and engineering and inspection costs to cover the cost of failure or repair of improvements installed on the site.

Section IV. Review and Approval

A. The Stormwater Staff will review each application for a site development permit to determine its conformance with the provisions of this regulation. Within 60 days after receiving an application, Staff shall, in writing:

1. Approve the permit application;
2. Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or
3. Disapprove the permit application, indicating the reason(s) and procedure for submitting a revised application and/or submission.

B. Failure of the Staff to act on an original or revised application within 60 days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by agreement between the applicant and Staff. Pending preparation and approval of a revised plan, development activities shall be allowed to proceed in accordance with State of Tennessee permitted regulations and conditions established by the *Tennessee Erosion and Sediment Control Handbook* published by the Tennessee Department of Environment and Conservation (TDEC). However, this does not relieve the applicant from acquiring a Notice of Coverage from TDEC before land disturbing activities start for projects which will disturb one acre or more of land or are part of a larger common development which will disturb one acre or more of land.

C. For projects requiring a stormwater permit, drainage plan, and/or a Notice of Coverage from TDEC, a pre-construction meeting shall be held between Staff or designee and the developer (or their representative) for any project that discharges directly into or is immediately upstream of a siltation or stream-side habitat impaired or

exceptional Waters of the State. No grading operations may take place until after the pre-construction meeting and perimeter sediment control devices are in place and functional

Section V. Erosion and Sediment Control Plan

- A. The Erosion and Sediment Control Plan shall be prepared and designed by a registered design professional qualified to prepare stormwater plans in accordance with State of Tennessee law and in accordance with the current State of Tennessee Construction General Permit, where applicable. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and the potential for off-site damage.
- B. For projects which require a Construction General Permit (Notice of Coverage) through the State of Tennessee, the SWPPP (plan and narrative) shall be prepared by a person in accordance with the current State of Tennessee Construction General Permit. The SWPPP shall contain all required information at required by the current State of Tennessee Construction General Permit. Be aware that the requirements for projects which drain into impaired or exceptional Waters of the State are different than for projects draining to an unimpaired Water of the State.
- C. The Erosion and Sediment Control Plan should be at a scale no smaller than 1"=100' and shall include the following:
 - 1. Existing soils, forest cover, wetlands, Waters of the State, and resources protected under federal, state and local laws and regulations, as appropriate for the size and complexity of the project.
 - 2. Existing and proposed topography using a contour interval appropriate for the size and complexity of the project.
 - 3. Temporary and permanent buffers along Waters of the State, where applicable, in accordance with State of Tennessee requirements and Hamblen County Buffer Zone Regulations.
 - 4. A sequence of construction of the development site including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; final grading, and temporary and permanent stabilization.
 - 5. All erosion and sediment control measures necessary to meet the objectives of this local regulation throughout all phases of construction shown on the plans and details provided.
 - 6. Stabilization information including seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.

7. Limit of disturbance with acreage showing approximate limits of proposed clearing, grading and filling.

D. Modifications to the plan shall be processed and approved or disapproved in the same manner as Section IV of this regulation, may be authorized by the Commission and/or its Staff by written authorization to the permittee, and shall include:

1. Major amendments of the erosion and sediment control plan submitted to the Commission and/or its Staff.
2. Field modifications of a minor nature.

Section VI. Design Requirements

A. Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the most recent version of the Tennessee Erosion and Sediment Control Handbook published by the Tennessee Department of Environment and Conservation, and shall be adequate to prevent transportation of sediment from the site to the satisfaction of the Commission and/or its Staff. Cut and fill slopes shall be *no greater than 2:1*, except as approved by Hamblen County Planning Commission and/or its Staff to meet other community or environmental objectives.

B. Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when in compliance with all federal, state and local laws and regulations. Clearing techniques that retain natural vegetation and drainage patterns, as described in the Tennessee Erosion and Sediment Control Handbook published by the Tennessee Department of Environment and Conservation, shall be used to the satisfaction of Hamblen County Planning Commission and/or its Staff.

C. All erosion and sediment control devices shall be designed for the 2 year, 24 hour storm as a minimum. For drainage area of 10 acres or more to a single outfall point, a sediment basin(s) or equivalent measures shall be used and designed for the 2 year, 24 hour storm. For projects which drain into an impaired or exceptional Waters of the State, the erosion and sediment control devices shall be designed for the 5 year, 24 hour storm and a sediment basin or equivalent measures shall be used for drainage areas of 5 acres or more to a single outfall point.

D. Clearing, except that necessary to establish sediment control devices, shall not begin until appropriate perimeter sediment control devices have been installed.

E. Phasing shall be required on all sites regardless of size as an effective practice for minimizing erosion and limiting sedimentation. Construction must be phased to keep the total disturbed area less than fifty (50) acres at any one time. The SWPPP must include the approximate location of each control measure and a description of when the measure will be implemented during the construction process (e.g., prior to the start of each

disturbance, as the slopes are altered, and after major grading is finished). At least two (2) separate EPSC plan sheets shall be developed for site disturbances less than five (5) acres and at least three (3) separate ESPC plan sheets shall be developed for site disturbances of five (5) or more acres.

F. Erosion control requirements shall include the following:

1. Temporary or permanent soil stabilization shall be completed within fourteen (14) days of grading operations ceasing. For slopes 3:1 or steeper, the soil stabilization shall occur within seven (7) days of grading operations ceasing.
2. If seeding or another vegetative erosion control method is used, it shall become established within *two weeks* or the Commission through its Staff may require the site to be reseeded or a non-vegetative option employed.
3. Special techniques that meet the design criteria outlined in (*Tennessee Erosion and Sediment Control Handbook*) on steep slopes or in drainage ways shall be used to ensure stabilization.
4. Soil stockpiles must be stabilized or covered at the end of each workday or erosion control measures provided around the stockpile.
5. The disturbed area must be stabilized, using a heavy mulch layer or another method that does not require germination to control erosion, during the non-growing seasons if grading operations cease for more than fourteen (14) days.
6. Techniques shall be employed to prevent the blowing of dust or sediment from the site.
7. Techniques that divert upland runoff ~~past~~ around disturbed slopes shall be employed, where appropriate and physically feasible.

G. Waterway and watercourse protection requirements shall include:

1. A temporary stream crossing installed and approved by the Tennessee Department of Environment and Conservation if a Waters of the State will be crossed regularly during construction.
2. An ARAP must be obtained from TDEC before any disturbance to or crossing of a Waters of the State.
3. Stabilization of the watercourse channel before, during, and after any in-channel work.
4. All on-site stormwater conveyance channels designed according to the criteria outlined in the *Tennessee Erosion and Sediment Control*

5. Handbook published by the Tennessee Department of Environment and Conservation.
6. Stabilization adequate to prevent erosion located at the outlets of all pipes and paved channels, outside of streams.
7. Temporary and permanent buffers along Waters of the State, where applicable, in accordance with State of Tennessee requirements and Hamblen County Buffer Zone Regulations.

H. Construction site access requirements shall include:

1. A stone construction exit per the Tennessee Sediment Control Handbook shall be provided for all construction ingress/egress points for all construction projects including single lot construction. This is required in order to prevent mud, sediment, and debris on public streets and public ways at a level acceptable to the Stormwater Staff.
2. Mud, sediment, and debris brought onto streets and public ways must be removed by the end of the day by machine, broom or shovel to the satisfaction of the Stormwater Staff. Failure to remove said sediment, mud or debris shall be deemed a violation of this ordinance.
3. It is the contractor's responsibility to prevent sediment from leaving the construction site and this includes sediment leaving the site by way of run-off flowing out the entrance or by vehicular tires carrying the sediment into the street. If there is run-off flowing down the construction exit to the street, a mountable stone berm or equivalent measures shall be used to direct the run-off to sediment control devices adjacent to the exit. The use of smaller stone or gravel other than shown in the Tennessee Sediment Control Handbook is not permitted.

Section VII. Inspection

A. The Commission and/or its Staff or designated agent shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the Erosion and Sediment Control Plan as approved. Plans for grading, stripping, excavating, and filling work bearing the stamp of approval of the Commission and/or its Staff shall be maintained at the site during the progress of the work. To obtain inspections, the permittee shall notify the Commission and/or its Staff least two working days before the following:

1. Start of construction.
2. Installation of sediment and erosion measures.

3. Completion of site clearing.
4. Completion of rough grading.
5. Completion of final grading.
6. Close of the construction season.
7. Completion of final landscaping.

B. The Commission and/or its Staff or its designated agent shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the compliance with this resolution.

C. The Permittee shall inspect and maintain/repair the erosion and sediment control devices in accordance with the current TDEC Construction General Permit if NOC issued by State of Tennessee, or at a minimum before and after rain events if no NOC required.

Section VIII Enforcement

In the event that any person holding a site development permit pursuant to this resolutions violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the Commission through its Staff may suspend or revoke the site development permit as per the enforcement responses laid out in the most recent version of the Hamblen County Stormwater Enforcement Response Plan. No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this resolution. No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill or cause the same to be done, contrary to or in violation of the terms of this resolution. The Commission and Staff are authorized and empowered to enforce the requirements of this resolution in accordance with the procedures set out in Tennessee Code Annotated 68-221-1106 or T.C.A 5-1-121, the terms of which are incorporated herein by reference, as well as the most recent version of the Hamblen County Stormwater Enforcement Response Plan. This plan can be access on the Hamblen County Stormwater website or an electronic copy can be requested at the Stormwater office.

Section IX Conflict with Other Regulations

Where the standards and management requirements of this resolution are in conflict with other laws, regulations, such as the most recent version of the Hamblen County Stormwater Enforcement Response Plan, and policies regarding streams, steep slopes, erodible soils, wetlands, floodplains, timber harvesting, land disturbance activities, or other environmental protective measures, the more restrictive shall apply.

Section X Separability

The provisions and sections of this resolution shall be deemed to be separable, and the invalidity of any portion of this resolution shall not affect the validity of the remainder.

Section XI Remedies Not Exclusive

The remedies listed in this resolution are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

Section XII Adoption of Resolution

This resolution shall be in full force and effective upon passage and adoption by the Hamblen County Board of Commissioners. All prior resolutions and parts of resolutions in conflict with this resolution are hereby repealed.

WHEREFORE, it was moved by Debbie A. Heason and seconded by Stan Horvill that this resolution be adopted.

Voting Aye: 12
Voting Nay: 0
Pass: Pass

The Chair declared the resolution adoption this 18th day of May, 2023

Chris [Signature]
Chairman

Attest:

Reagy Henderson
County Clerk

Bill Brittan
County Mayor