

**RESOLUTION 23-22**

**A RESOLUTION TO AMEND THE STORMWATER  
ILLICIT DISCHARGE AND ILLEGAL CONNECTION REGULATIONS OF  
HAMBLÉN COUNTY, TENNESSEE  
MAY 18, 2023**

**WHEREAS**, uncontrolled storm water 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 Conservation (TDEC) to reduce storm water flows and associated pollutants discharged into waterways through Hamblen County's storm water 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 storm water to the maximum reasonable extent using management practices, control techniques and system design, 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 Illicit Discharge and Illegal Connection regulation amendment and shall read as follows:

**Section I. Purpose/Intent**

The purpose of this resolution is to provide for the health, safety, and general welfare of the citizens of Hamblen County through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This resolution establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this resolution are:

1. To regulate the contribution of pollutants to the County's MS4 by stormwater discharges by any user.
2. To prohibit Illegal Connections and Illicit Discharges to the County's MS4.

3. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this resolution.

## **Section II. Definitions**

**For the purposes of this resolution, the following shall mean:**

**Authorized Enforcement Agency**-Employees or designees of the Stormwater Coordinator for the Hamblen County Planning Department designated to enforce this resolution.

**Best Management Practices (BMPs)**-Schedules of activities, prohibitions of practices, general good house-keeping practices, pollution preventions and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

**Bulk Waste**- Such term shall mean furniture, bedding, appliances, and other refuse items that, by their size, shape, or weight, cannot be placed in a county provided MHC. This specifically excludes construction waste. This definition can be used or any other definition for bulk waste that is adopted by Hamblen County.

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

**Construction Activity**-Activities subject to NPDES Construction Permits. After March 2003, NPDES Storm Water Phase II permits are required for construction projects resulting in land disturbance of 1 acre or more. Projects or developments of less than one (1) acre of land disturbance are required to obtain authorization if the construction activities at the site are part of a larger common plan of development or sale that is at least one (1) acre in size. Projects or developments of less than one (1) acre of total land disturbance may also be required to obtain authorization under certain conditions. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

**Commission** – Hamblen County Planning Commission

**Hazardous Materials**-Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

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

**Illegal Connections**-An illegal connection is defined as either of the following:

1. Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,
2. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

**Illicit Discharge**- Any direct or indirect non-storm water discharge, into the storm sewer system, storm drains, pipes and ditches that is not entirely of stormwater.

**Industrial Activity**-Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b) (14).

**MS4**-Municipal Separate Storm Sewer System- Hamblen County is a State of Tennessee designated MS4 jurisdiction.

**MS4 Access**-Discharge of stormwater into the public storm drains system.

**National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit**- Is defined as a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC§ 1342(b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area wide basis.

**Non-Storm Water Discharge**-Any discharge to the storm drain system that is not composed entirely of storm water.

**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.

**Pollutant**- Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

**Premises**-Is defined as any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

**Storm Drainage System**-Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, county streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

**Storm Water**-Is any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

**Storm Water Pollution Prevention Plan (SWPPP)**- A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Storm Water, Storm Water Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

**TDEC** – Tennessee Department of Environment and Conservation

**Wastewater**-Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

**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 Water of the State that directs surface runoff to a watercourse or to the public storm drain.

### **Section III. Applicability**

This resolution shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

### **Section IV. Responsibility for Administration**

The Commission and its Staff shall administer, implement, and enforce the provisions of this resolution. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Staff of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency.

### **Section V. Severability**

The provisions of this resolution are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this resolution or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this resolution.

### **Section VI. Ultimate Responsibility**

The standards set forth herein and promulgated pursuant to this resolution are minimum standards; therefore, this resolution does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

### **Section VII. Discharge Prohibitions**

#### **Prohibition of Illicit Discharges**

No person shall discharge or cause to be discharged into the county storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. The enforcement response to illicit discharges can be found in the most recent version of the Hamblen County Stormwater Enforcement Response Plan (also referenced in Section XIV).

The commencement, conduct or continuance of any illicit discharge to the storm drain system is prohibited except as described as follows:

1. The following discharges are exempt from discharge prohibitions established by this resolution:
  - a. water line flushing or other potable water sources,
  - b. landscape irrigation or lawn watering,
  - c. diverted stream flows,
  - d. rising ground water,
  - e. ground water infiltration to storm drains,

- f. uncontaminated pumped ground water,
  - g. foundation or footing drains (not including active groundwater dewatering system),
  - h. crawl space pumps,
  - i. air conditioning condensation,
  - j. springs,
  - k. non-commercial washing of vehicles,
  - l. natural riparian habitat or wet land flows,
  - m. swimming pools (if dechlorinated-typically less than one PPM chlorine), firefighting activities, and
  - n. any other water source not containing Pollutants.
2. Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
  3. Dye testing is an allowable discharge but requires a verbal notification to the authorized enforcement agency prior to the time of the test.
  4. The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

### **Prohibition of Illegal Connections**

1. The construction, use, maintenance or continued existence of illegal connections to the storm drain system is prohibited.
2. This prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
3. A person is considered to be in violation of this resolution if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.
4. The enforcement response to illicit discharges can be found in the most recent version of the Hamblen County Stormwater Enforcement Response Plan (also referenced in Section XIV).
5. Improper connections in violation of this chapter must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the receiving sanitary sewer agency.
6. Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the enforcement officer requiring that such locating be completed. The notice will specify a

reasonable time within which the location of the drain or conveyance is to be completed, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the enforcement officer.

### **Storm Drain Inlet Labeling**

Storm drain inlets installed in new public streets whether installed by private parties or Hamblen County shall be labeled with the words "Don't Dump – Drains to Stream" using traffic bearing paint and minimum 2" high letters. The labeled shall be placed in a conspicuous location adjacent to or on the inlet. The preferred location for the labeling is outside of the road pavement on the curb, if applicable, or the top of the inlet structure. Other alternate locations for the labeling if the top of the curb or structure does not work are the pavement or sidewalk.

Other methods such as storm drain markers or castings in the structures to provide the words "Don't Dump – Drains to Stream" adjacent to or on the inlets may be used if the wording is conspicuous and long lasting. Other wording besides "Don't Dump – Drains to Stream" may be used if the intent is the same.

### **Section VIII. Suspension of MS4 Access**

#### **Suspension Due to Illicit Discharges in Emergency Situations**

Per Section XIV of this resolution as well as the most recent version of the Hamblen County Stormwater Enforcement Response Plan (ERP), The Commission and/or Staff may, without prior notice, suspend MS4 discharge access to a person when suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health of persons or livestock, or to the MS4 or Waters of the State. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the State, or to minimize danger to persons.

#### **Suspension due to the Detection of Illicit Discharge**

Any person discharging to the MS4 in violation of this resolution may have their MS4 access terminated if termination would abate or reduce an illicit discharge. The Commission or Staff will notify a violator of the proposed termination of its MS4 access. The violator may petition the Hamblen County Planning Commission for a reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the authorized enforcement agency.

### **Section IX. Industrial or Construction Activity Discharges**

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be

required in a form acceptable to the Hamblen County Planning Commission and its ~~Director of Planning~~ Stormwater Staff prior to the allowing of discharges to the MS4.

## **Section X. Monitoring of Discharges**

### **A. Applicability**

This section applies to all facilities or properties that have storm water discharges including industrial and construction activities.

### **B. Access to Facilities**

1. The Commission and/or Staff shall be permitted to enter and inspect facilities subject to regulation under this resolution as often as may be necessary to determine compliance with this resolution. If a discharger has security measures in force, which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.
2. Facility operators shall allow the Commission and/or Staff ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.
3. The Commission and/or Staff shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's storm water discharge.
4. The Commission and/or Staff has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall always be maintained in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.
5. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Commission and/or Staff and shall not be replaced. The costs of clearing such access shall be borne by the operator.
6. Unreasonable delays in allowing the Commission and/or Staff access to a permitted facility is a violation of a storm water discharge permit and of this resolution. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this resolution.
7. If the Commission and/or Staff have been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this resolution, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program



designed to verify compliance with this resolution or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

### **Section XI. Requirements to Prevent, Control, and Reduce Storm Water Pollutants by the Use of Best Management Practices**

The Commission and/or Staff will adopt requirements identifying Best Management Practices for any activity, operation, or facility, which may cause or contribute to pollution or contaminations of storm water, the storm drain system, or waters of the State. The owner or operator of commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses using these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at that person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the County's MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPS shall be part of a storm water pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit. The protocol for Bulk Waste Collection is amended effective August 1, 2023 as follows: Trash/Brush/Bulk Waste will not be picked up by the County if placed in any ditch line. Individuals could be cited and fined if found in violation of this policy.\*

### **Section XII. Watercourse Protection**

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

### **Section XIII. Notifications 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 or may result in illicit discharges or pollutants discharging into storm water, the storm drain system, or water of the State said 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 said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch

services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Hamblen County Planning Commission within three (3) business days of the phone 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. These records shall be retained for at least three years.

#### **Section XIV. Enforcement**

Whenever the Commission and/or Staff finds that a person has violated a prohibition or failed to meet a requirement of this resolution, the Commission and/or Staff may order compliance through the methods as listed in the most recent version of the Hamblen County Stormwater Enforcement Response Plan (ERP). This plan can be accessed on the Hamblen County Stormwater website or by requesting an electronic copy through the Stormwater office.

##### **Violation an Immediate Danger to Public Health or Safety**

In the event the violation constitutes an immediate danger to public health or public safety, the Hamblen County Planning Commission and its Stormwater Staff are authorized to enter upon the subject private property, without giving prior notice, to take all measures necessary to abate the violation and/or restore the property. The Commission and Staff are authorized to seek recovery of the costs of the abatement.

##### **Costs of Abatement of the Violation**

Within thirty (30) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the assessment or to the amount of the assessment within 30 days of such notice. If the amount due is not paid within thirty (30) days after receipt of the notice, or if an appeal is taken, within thirty (30) days after a decision on said appeal upholds the assessment, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Hamblen County Planning Commission and the Hamblen County Director of Planning 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. Any person who violates the provisions of any resolution regulating storm water discharges or facilities shall be subject to a civil penalty of fifty dollars (\$50.00) per day for each day of violations. Each day of violation may constitute a separate violation.

**Section XV. Appeal of Civil Penalty**

Any person receiving an Assessment may appeal the determination to the Hamblen County Planning Commission. The notice of appeal must be received within 30 days from the date of the Assessment. Hearing on the appeal before the Hamblen County Planning Commission or its designee shall take place within 30 days from the date of receipt of the notice of appeal. The decision of the Hamblen County Planning Commission or their designee shall be final.

**Section XVI. 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 XVII. Conflict with Other Regulations**

Where the standards and management requirements of this resolution conflict with other laws, regulations, and policies regarding streams, steep slopes, erodible soils, wetlands, floodplains, timber harvesting, land disturbance activities, or other environmental protective measures, the more restrictive shall apply.

**Section XVIII. Severability**

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

**Section XIX. Adoption of Resolution**

This resolution shall be in full force and effect 30 days after its final 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.

**\*Note: This section was added after these regulations had been approved by the Hamblen County Planning Commission and submitted for adoption by the County Commission.**

WHEREFORE, it was moved by Tim Horner and seconded  
by Kyle Walker that this Resoluton be adopted.

Voting Aye: 12

Voting Nay: 0

Pass: Pass

The Chair declared the resolution adoption the 18<sup>th</sup> day of May 20.23

By: Chris Cutshaw  
Chairman

Attest: Peggy Henderson  
County Clerk

Approved: Bill Butts  
County Mayor