



## Hamilton County Board of Commissioners

# RESOLUTION

No. 111-8

A RESOLUTION TO REVISE THE STANDARD OPERATING PROCEDURES FOR THE HAMILTON COUNTY STORM WATER POLLUTION CONTROL PROGRAM.

WHEREAS, Resolution 304-13 approved the Interlocal Agreement to implement Phase II of the Storm Water Pollution Control Program; and,

WHEREAS, Resolution 604-40 approved the Standard Operating Procedures for the Hamilton County Storm Water Pollution Control Program; and,

WHEREAS, The Storm Water Management Committee has voted to revise the Standard Operating Procedures; and,

WHEREAS, a copy of the proposed revised Standard Operating Procedures is attached hereto and incorporated herein by reference, as though fully and completely copied verbatim; and

NOW, THEREFORE, BE IT RESOLVED BY THIS LEGISLATIVE BODY IN SESSION ASSEMBLED:

That Hamilton County has accepted the revision to the Storm Water Standard Operating Procedures for the Phase II Storm Water Pollution Control Program.

BE IT FURTHER RESOLVED THAT THIS RESOLUTION TAKE EFFECT FROM AND AFTER ITS PASSAGE, THE PUBLIC WELFARE REQUIRING IT.

Approved: ☒

Rejected: ☐

Approved: ☒

Vetoed: ☐

CERTIFICATION OF ACTION

County Clerk

County Mayor

January 5, 2011

Date



STANDARD OPERATING PROCEDURES  
FOR  
HAMILTON COUNTY WATER QUALITY PROGRAM

February 2004

(Update January 2011)

STANDARD OPERATING PROCEDURES  
FOR  
HAMILTON COUNTY WATER QUALITY PROGRAM

Hamilton County  
City of Collegedale  
City of East Ridge  
City of Lakesite  
Town of Lookout Mountain  
City of Red Bank  
City of Ridgeside  
City of Soddy-Daisy

Prepared by:

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*Engineers in Water and Earth Sciences*  
Chattanooga, Tennessee  
CTI Project No. CO2032

February 2004

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## **STANDARD OPERATING PROCEDURES FOR HAMILTON COUNTY WATER QUALITY PROGRAM**

### **THE MANAGEMENT COMMITTEE**

The Hamilton County Water Quality Program (the Program) is to be directed by a committee ("the Management Committee") composed of representatives of the County and the cities participating in the Program. The County and each of the participating cities shall individually appoint one member to the Management Committee. Each participating community may also appoint an Alternate Member to the Management Committee. An Alternate Member shall be allowed to attend Management Committee and subcommittee meetings and participate in all discussions at such meetings, but an Alternate Member shall not be allowed to formally make or second motions or cast votes at such meetings except in the absence of the community's Primary Member. All provisions pertaining to Management Committee members as described herein below shall apply equally to alternate members. The duties, responsibilities, qualifications, and operating procedures of the Management Committee and its members and alternates, if appointed, shall be as follows:

1. **DUTIES:** The Management Committee shall provide guidance, direction, and support to the Program Manager and staff in their activities to effectively implement and operate the Program within the designated Program Service Area. The Management Committee shall also provide the first level of review for all appeals of the actions or decisions of the Program staff and/or other Program-related matters.
2. **QUALIFICATIONS:** Each Management Committee member shall be an elected official or senior administrative staff member of the appointing entity. Senior administrative staff includes positions such as city manager, department manager, city/county engineer, finance director, and other managerial positions of similar administrative responsibility. Each participating community may choose to appoint a representative to the Management Committee, other than an elected official or senior staff member, who it determines, at its sole discretion, to be qualified by experience and/or education to serve as the community's representative.
3. **APPOINTMENT:** Each Management Committee member shall be appointed to a fixed term. Members may be re-appointed to successive terms without limit. Members shall be nominated by the Mayor and confirmed by majority vote of the Board of Commissioners or City Council, as applicable, of the entity appointing the member. A certified copy of the instrument of appointment of a member shall be provided to the Program Manager. An appointment shall be effective as of the date stated on the instrument of appointment. A committee member shall continue to serve until a replacement is appointed by the entity represented by said member.
4. **TERMS:** Except for the initial appointees, the term of each committee appointment shall be approximately 4 years. For the initial representative of each participating community, the term shall end as shown in the table below, and subsequent terms of each community's representative will end as of the last day of March at 4-year intervals thereafter:

<u>Participating Community</u>	<u>Initial Term End Date</u>
Hamilton County	March 31, 2008
City of Collegedale	March 31, 2008
City of East Ridge	March 31, 2006
City of Lakesite	March 31, 2008
Town of Lookout Mountain	March 31, 2008
City of Red Bank	March 31, 2006
City of Ridgeside	March 31, 2006
City of Soddy-Daisy	March 31, 2006

Should a community join the Program at some future date, that community's initial representative's initial term shall end as of the last day of March closest to 4 years after the date of the representative's appointment. Subsequent terms for that community's representative shall end on 4-year intervals after the end of the initial appointee's initial term.

5. **REMOVAL:** A member of the Management Committee may be removed by majority vote of the Board of Commissioners or City Council, as applicable, of the entity appointing the member. A certified copy of the instrument of removal of a member shall be provided to the Program Manager. The removal shall be effective as of the date and time the instrument of removal is actually delivered to the Program Manager.
6. **TEMPORARY APPOINTMENTS:** Should a serving member (Representing a participating community with no previously named alternate member) be incapacitated or otherwise unable to perform his or her committee responsibilities for an extended period, the entity represented by said member may appoint a temporary replacement. The procedure for appointment of a temporary member shall be identical to that for a permanent member, as outlined in paragraph 3 hereinbefore, except that the instrument of appointment shall clearly state that the appointment is temporary and shall identify a fixed expiration date or other expiration mechanism for the appointment. A participating community may also appoint a temporary replacement for its Alternate Management Committee member; if an alternate member has been previously appointed and said alternate member becomes incapacitated or otherwise unable to fulfill his or her committee responsibilities for an extended period.
7. **VOTING RIGHTS:** Each member of the Management Committee shall have one vote on all matters which come before the committee at any meeting where the member is present. There shall be no voting by proxy. Members may attend meetings by telephone or other electronic means and shall be allowed to participate as if present in person. Each member shall be entitled to move or second any business item and shall be allowed to state an opinion on any matter brought before the committee.
8. **MEETINGS:** It is anticipated that the Management Committee will meet on a regular basis, at least once per month. The committee shall determine its own preferred meeting schedule. Meetings on a more or less frequent schedule shall be acceptable based on the demands placed on the committee. Special meetings of the committee may be called by the Chair at any time. The time and place of all meetings shall be publicly announced in accordance with applicable provisions of the "sunshine laws" of the State of Tennessee. All meetings of the committee, subcommittees, and other

deliberations of the members of the Management Committee shall be open to the public and otherwise conform with applicable provisions of the "sunshine laws" of the State of Tennessee.

9. **QUORUM:** A quorum of the full Management Committee shall exist when the actual number of members present, either in person or by electronic means, exceeds one-half of the total number of members of the committee. No official action of the Management Committee shall be transacted unless a quorum is present at the time the action is taken.
10. **SUBCOMMITTEES:** The Management Committee may create subcommittees consisting of at least three members to hear appeals, consider nominations for officers, make investigations, and transact other business as approved by the full committee. Subcommittee members shall be nominated by the Chair of the Management Committee and confirmed by a vote of the Management Committee in an open meeting. The formula described in paragraph 9 hereinbefore shall be applied to all subcommittees and no business shall be conducted by a subcommittee if a quorum is not present. Other Management Committee members may voluntarily serve as ex officio members of any subcommittee. Such ex officio members shall have full voting and participatory rights with regard to the actions of the subcommittee but shall not be counted in the determination of a quorum.
11. **OFFICERS:** The Management Committee shall have a Chair, a Vice Chair, a Secretary, and such other officers as the committee may authorize.
  - a. **Qualifications:** Each officer must be a properly appointed member of the Management Committee.
  - b. **Term:** Each officer shall be elected for a one-year term and may be re-elected to successive terms without limit. Terms shall begin on April 1st of each year and end on March 31st of the following year.
  - c. **Election:** The Secretary or Vice Chair, if the Secretary is absent, shall preside over the officer election process at an open meeting of the Management Committee. (The representative of Hamilton County shall preside at the organizational meeting of the committee until an initial slate of officers is duly elected.) Nominations for each officer position shall be taken from the membership until a "motion to cease" is made, seconded, and passed by majority vote. A nominated member must indicate his or her willingness to serve in the position being decided before the nomination will be considered valid. If only one name remains in nomination after the passage of the motion to cease, that member shall be elected to the position without additional action by the committee. If more than one name remains in nomination after the passage of the motion to cease, an election by roll call shall be conducted, with each member eligible to cast a single vote. The Secretary shall tally the votes. The nominee receiving the highest number of votes shall be declared the winner. If two or more nominees tie for the highest number of votes, the entire nomination and election process for that office shall be repeated.
  - d. **Responsibilities:**



- 1) Chair: The Chair shall preside over meetings of the Management Committee, call special meetings of the committee when deemed appropriate and/or requested by the Program Manager, nominate members to subcommittees, and perform other duties as assigned by this document or action of the committee.
  - 2) Vice Chair: The Vice Chair shall preside over meetings of the Management Committee in the absence of the Chair, preside over the election of new officers for the committee if the Secretary is absent, and perform other duties as assigned by the Chair and affirmed by the committee.
  - 3) Secretary: The Secretary shall preside over meetings of the Management Committee in the absence of the Chair and Vice Chair, review and certify the minutes of the meetings of the committee after their approval by the committee, oversee the maintenance of the records of the committee and of committee member appointments, preside over the election of new officers for the committee, and perform other duties as assigned by the Chair and affirmed by the committee.
- e. Succession: Should any officer of the Management Committee be unable for any reason to complete his or her term, the next most senior officer shall move into the vacated position (i.e., the Vice Chair shall succeed the Chair, the Secretary shall succeed the Vice Chair, etc.). The committee shall then elect a member to complete the unexpired term of the most junior officer position then in use by the committee. Seniority of officer positions not specifically described by this document shall be determined based on the date of the creation of the position by the committee.
12. **SEPARATE LEGAL COUNSEL:** The Management Committee may, at its sole discretion, arrange for separate legal counsel to advise the committee on a continuing basis and/or represent the Program on specific legal matters as they arise. The costs for such separate legal counsel shall be reimbursed from Program funds. The Hamilton County Attorney shall act as counsel to the committee until replaced by committee action.
  13. **SEPARATE PROFESSIONAL ACCOUNTING CONSULTANT:** The Management Committee may, at its sole discretion, arrange for a separate professional accounting consultant to advise the committee on a continuing basis and/or represent the Program on specific financial matters as they arise. The costs for such separate professional accounting consultant shall be reimbursed from Program funds. The Hamilton County Finance Department shall provide accounting support to the committee until replaced by committee action.
  14. **OFFICERS AND DIRECTORS INSURANCE:** The Management Committee may, at its sole discretion, arrange for Officers and Directors Insurance or similar coverage to protect the members of the committee from claims arising from their service on the committee. The costs for the Officers and Directors Insurance, if purchased, shall be reimbursed from Program funds.

15. **COMPENSATION:** The members of the Management Committee shall serve without compensation from Program funds, except that the reasonable expenses of members traveling outside of Hamilton County on the business of the committee shall be reimbursed at cost. It is understood and agreed that such business may include the attendance of a member at one conference or seminar pertaining to stormwater pollution control, of the member's choice, per calendar year. The reimbursement for attendance at such a conference or seminar shall be in accordance with applicable Hamilton County travel policies and shall not exceed \$1,000 per member. All other reimbursable member travel shall be pre-approved by the Chair and/or committee action.
16. **PURCHASING RULES:** All purchases made by the Program shall be made in accordance with applicable Hamilton County purchasing policies. Purchases authorized by the Management Committee in excess of \$500 shall be approved by a roll call vote of the committee.

### **PROGRAM SERVICE AREA**

The initial Program Service Area is defined in the Interlocal Agreement adopted by all participating communities which established the Program. The Program Service Area boundaries may change over time as the result of various circumstances.

1. **AUTOMATIC REVISIONS:** In some cases the change will be automatic and will not require any action by the Management Committee. Examples of such "automatic" revisions include the following situations:
  - a. The corporate limits of any participating city expand through annexation into areas not previously included in the Program Service Area. This scenario results in an increase to the Program Service Area.
  - b. A non-participating city annexes a previously unincorporated area which was included in the Program Service Area. This scenario results in a reduction in the Program Service Area.
  - c. The Tennessee Department of Environment and Conservation (TDEC), or successor agency, or a court of competent jurisdiction, issues an order, which is upheld on appeal if challenged by the Program, directing the Program to modify the Program Service Area to cover an area not previously included or exclude an area previously included. This scenario may result in either an increase or a decrease to the Program Service Area.
2. **DISCRETIONARY REVISIONS:** Other changes to the Program Service Area will require action by the Program staff and/or the Management Committee. Examples of such "nonautomatic" revisions include the following:
  - a. The RPC redefines the urbanized unincorporated area of the County to include areas not previously included in the Program Service Area (expanding the urbanized area) or to exclude areas previously included in the Program Service Area (contracting the urbanizing area). In either the expanding or

contracting scenario, the actual Program boundaries will not change until the permit in force at the time of the RPC redefinition expires and a new permit becomes effective which includes a revision to the Program Service Area approved by the Management Committee.

- b. Three-fourths (75 percent) of all members of the Management Committee vote to add an unincorporated area not previously included in the Program Service Area. This procedure would expand the Program Service Area to include an area which is becoming urbanized more rapidly than the RPC may have envisioned when it made its last projections.
- c. A specific development is added to the Program Service Area to prevent "spot" development in an attempt to circumvent the pollution control requirements of the Program. To qualify for consideration as a "spot" development, all of the following criteria must apply:

1) Residential Developments:

- (a) The total area proposed for the development, in all phases, must be greater than 20 acres.
- (b) Some portion of the development area must be located in the unincorporated area of the County within a zone defined by the existing Program Service Area boundary, as referenced hereinbefore, and a line drawn 2,000 feet from and parallel to the existing Program Service Area boundary.
- (c) The gross residence lot size must be less than 2 acres. Gross residence lot size is to be determined by dividing the overall area proposed for development by the proposed number of residences in that area.

2) Commercial and Industrial Developments:

- (a) The total area proposed for the development must be greater than 5 acres.
- (b) Some portion of the development area must be located in the unincorporated area of the County within a zone defined by the existing Program Service Area boundary, as referenced hereinbefore, and a line drawn 2,000 feet from and parallel to the existing Program Service Area boundary.
- (c) The proportion of impervious area (roofs, pavements, tanks, etc.) must be greater than 20 percent of the total area proposed for the development.
- (d) Exception: Industrial developments located in the zone defined in paragraph 2.c.2) (b) immediately above which are expected to release significant quantities of particulate or other pollutants which may impact the water quality of receiving streams in the

vicinity of the development may be added to the Program Service Area regardless of the size and/or the impervious area ratio of the development.

- 3) No "spot" development shall be added to the Program Service Area unless the development satisfies the criteria outlined above, the addition is endorsed by the Program Manager, and the addition is approved by a majority of the members of the Management Committee present and voting at a meeting of the committee.

## **PROGRAM STAFF**

### **Program Manager**

The Program shall be directed by a Program Manager. Administratively, the Program Manager will be assigned to the Office of the Hamilton County Engineer. Managerially, the Program Manager will be directed by the County Engineer with the concurrence of the Management Committee.

1. **MINIMUM QUALIFICATIONS:** The Program Manager shall possess the following minimum qualifications at the time of his or her employment:
  - a. Bachelor's degree from an accredited civil engineering, biology, or related program.
  - b. At least 3 years of actual post-graduation experience in the field of stormwater management and/or stormwater pollution control.
  - c. At least 3 additional years of project or program management experience, including the direct supervision of a professional staff of at least three employees.
  - d. Fluency in the English language with good communication, writing, and speaking skills.
  - e. Professional demeanor and appearance.
  - f. Residency in the Chattanooga Standard Metropolitan Area (SMA) or willing to locate primary residence to the Chattanooga SMA within six months of employment.
  - g. Ability to personally operate a motor vehicle, climb stream banks and negotiate other rough terrains, and reach remote locations which may require using steps, ladders, unpaved pathways, etc.
2. **HIRING:** The Program Manager shall be an employee of Hamilton County General Government and shall comply with all applicable employment rules and regulations established by the County. The Hamilton County Personnel Department shall, in conformance with its normal procedures, advertise the position, screen respondents, and identify potential candidates for the Program Manager position. The County Engineer, or his designee, shall interview potential candidates and select a nominee for

consideration by the Management Committee. The Management Committee must, after reviewing the nominee's qualifications and holding an interview with the nominee, concur by majority vote with the County Engineer's nominee for Program Manager. A nominee failing to receive the affirmation of the committee will not be recommended for the position.

3. **REMOVAL:** The Program Manager is an employee of Hamilton County General Government and may be discharged from the position as allowed by the applicable rules, regulations, and procedures of the County.

### **Other Program Staff**

The initial permit for the Program identifies an eight-person, full-time staff to implement the Program.

1. **POSITIONS:** In addition to the Program Manager, the following seven positions are called for:
  - a. Illicit Discharge Surveyor
  - b. Illicit Discharge Surveyor Assistant
  - c. Plans Reviewer
  - d. Plans Reviewer Assistant
  - e. Field Inspector
  - f. Program Coordinator
  - g. Program Clerk

It is understood and agreed that staff positions may be added or eliminated in the future.

2. **QUALIFICATIONS AND JOB DESCRIPTIONS:** The Program Manager shall develop qualification requirements and specific job descriptions for each of the other Program staff positions. The qualification requirements and job description for each position shall be reviewed and approved by the Management Committee, the County Engineer, the Administrator of Public Works, and the County Mayor before any recruitment efforts for the position are initiated.
3. **EMPLOYMENT PROCEDURES:** Each Program staff member shall be an employee of Hamilton County and shall comply with all applicable employment rules and regulations established by the County. The Hamilton County Personnel Department shall, in conformance with its normal procedures, advertise each position, screen respondents, and identify potential candidates for each Program position. The Program Manager shall review each candidate's qualifications, interview qualified candidates, and make a recommendation of employment to the County Engineer. If the County Engineer concurs with the recommendation, he will notify the Hamilton County Personnel Department, which will extend an employment offer to the identified candidate in accordance with the standard hiring procedures of Hamilton County General Government.
4. **REMOVAL PROCEDURES:** Each Program staff member is an employee of Hamilton County and may be discharged from his or her position as allowed by the applicable rules, regulations, and procedures of the County.

## **AUTHORITY OF PROGRAM STAFF**

Under the terms of the Interlocal Agreement establishing the Program, the participating cities have authorized the County, acting through the Program Manager and Program staff, to implement and enforce the Program within the corporate limits of participating cities. In accordance with this authorization, the Program staff, under the direct supervision of the Program Manager and subject to the review of the Management Committee, shall perform the following duties:

1. **ENTER PUBLIC PROPERTIES:** Enter upon all properties, rights-of-way, and easements owned or held by each participating city as necessary and convenient for the conduct of the Program, including the inspection of city-owned storm sewer and other stormwater handling facilities.
2. **REVIEW PLANS:** Review plans and issue permits as authorized by the Program for erosion control and stormwater pollution control measures for new developments.
3. **PERIODIC INSPECTIONS:** Make periodic inspections to verify compliance with permit provisions for erosion control and stormwater pollution control measures for new developments.
4. **FIELD RECONNAISSANCE:** Perform field reconnaissance of streams, storm sewers, and other drainage ways within the Program Service Area to identify stormwater discharge points and possible illicit discharges. Where such reconnaissance requires entering upon private properties within corporate boundaries of a participating city, the staff of such city shall fully cooperate with and assist the Program staff in obtaining appropriate right-of-entry authorization.
5. **SAMPLE FLOWS:** Take samples and perform laboratory testing on flows entering a stormwater conveyance system from any property or properties located within the Program Service Area to determine if an illicit discharge exists.
6. **ISSUE PERMITS:** Issue permits for the discharge of materials determined to have no detrimental impacts on the water environment into the stormwater collection system as allowed by the Program and applicable state and federal regulations.
7. **POINT OF CONTACT:** Act as the primary point of contact for the Program to receive questions, comments, and complaints from interested parties.
8. **PUBLIC EDUCATION AND PARTICIPATION:** Develop and conduct education and public participation programs to raise public interest in and awareness of the Program and stormwater pollution control in general.
9. **COORDINATE FEES:** Coordinate the periodic update of annual Program fees for all residential, commercial, and industrial properties in the Program Service Area. Determine the applicable annual Program fee for all new residential, commercial, and industrial developments, including single-family residences, and report all such assessments to the fee collection agency or agencies for the Program.

10. **MAINTAIN RECORDS:** Maintain the documentary and financial records of the Program.
11. **ISSUE CITATIONS:** Issue citations to individuals and commercial entities within the Program Service Area, as authorized by the Program, determined to be in civil violation of Program requirements. All such citations shall be reviewed by and issued under the signature of the Program Manager.
12. **REPORT CRIMINAL VIOLATIONS:** Report possible criminal violations of Program requirements to the TDEC for evaluation and prosecution. Any and all reports of possible criminal violations shall be reviewed and endorsed by the Program Manager prior to their submission for enforcement.
13. **OTHER FUNCTIONS:** Perform other functions authorized or required by this document, the current permit under which the Program is operating, or the enabling legislation passed by the city and/or the County authorizing the Program.

## **APPEALS**

All actions of the Program staff, except for possible criminal violations which the staff has reported to the appropriate enforcement agency, shall be subject to an appeals process under the initial jurisdiction of the Management Committee. Written appeals of staff actions must be filed with the Program Manager within thirty (30) days of the actions issuance (TCA § 68-221-1106). The appeals process shall function as follows:

1. **ADMINISTRATIVE REVIEW:** An administrative review of all appeals and/or requests for review shall initially be conducted by the Program Manager. The Program Manager shall review the record of the situation and, if the Program Manager is not satisfied that both of the following conditions have been met, the Program Manager shall notify the appellant of the finding and grant the relief or a portion of the relief, as determined by the Program Manager, sought by the appellant:

- a. The matter under dispute has been handled correctly by the Program staff under the applicable rules and procedures of the Program.
- b. The matter under dispute has been handled fairly by the Program staff and the appellant has not, in any way, been treated differently than other dischargers with similar circumstances.

If the Program Manager determines that both items "a" and "b" immediately above have been satisfied, the Program Manager shall notify the appellant in writing that no relief can be granted at the Program staff level and that the appellant is free to pursue the appeal with the Management Committee. Such notification shall include instructions as to proper procedure for bringing the matter before the committee. The Program Manager shall complete the review and issue a decision within 20 calendar days of the receipt of the appeal.

2. **COMMITTEE HEARING:** An appeal rejected by the Program Manager, in accordance with the procedure outlined immediately above, may be submitted in writing to the Program Manager to be brought before the Management Committee. A written appeal

to the Management Committee must be received by the Program Manager within 30 days of the date of the Program Manager's original decision on the matter. Within 30 days of receipt of a notification of an appeal, the committee shall determine if the appeal is to be heard by the committee as a whole, or if the matter is to be referred to a standing subcommittee, or if a new subcommittee is to be appointed specifically to hear the appeal. If a special committee is appointed, the officer presiding at the meeting of the Management Committee at which the special subcommittee is appointed shall name a chair and vice chair for said subcommittee. Once the appropriate forum for the appeal is decided, a date and time for hearing the appeal shall be set. Such date and time shall be within 15 calendar days following the date of the Management Committee's initial considerations regarding the appeal.

3. **HEARING PROCEDURES:** Appeal hearings shall be conducted in a formal and orderly manner. However, the hearing is not a "court of law" and the rules of evidence, testimony, and procedures for such courts shall not apply. The Program Manager, or his designee, shall first brief the committee or subcommittee on the history of the situation, including the actions of the Program staff leading up to the appeal. The appellant shall then present his or her arguments as to why the relief sought should be granted. The Program Manager, or his designee, shall then have the opportunity to rebut or refute the appellant's arguments. The committee or subcommittee shall then conduct deliberations concerning the appeal in an open session. During such deliberations, the members may ask questions of and/or seek additional input from the appellant or the Program staff to clarify the situation. At the close of these deliberations the committee or subcommittee shall vote to accept or reject the appeal. The outcome of this vote shall be considered the final action of the Management Committee with regard to the appeal. The Management Committee member from whose jurisdiction the appeal is being heard shall recuse himself from the hearing of that matter.

### **ANNUAL PROGRAM FEES**

The Program shall be financed primarily through an annual fee charged to all residential, commercial, and industrial stormwater dischargers located within the Program Service Area. The annual Program fees shall comply with the following provisions:

1. **INITIAL FEE STRUCTURE:** The annual fee structure shall be based on the premise that every discharger in the Program Service Area should pay an approximately equal fee based on the amount of impervious area of their particular property.
  - a. **Residential Properties:** Engineering studies have indicated that the average residential household represents approximately 3,500 square feet (0.08 acre) of impervious area. Such areas include the roof area of the dwelling, driveways, parking areas, sidewalks, landscaping, recreational areas, maintenance areas, and other uses. Studies have also indicated that more densely developed residential areas, generally with somewhat less impervious area per household, actually generate more stormwater pollution than less densely developed properties which have somewhat greater impervious areas but are generally on larger lots. For this reason the use of a single residential annual fee of \$9.00 shall be adopted initially for all households in the Program Service area. Property for agricultural or residential purposes



and shown with a structure or structures of some positive value on the records of the Hamilton County Assessor of Property shall be charged a residential annual Program fee as described above. Multi-family residential complexes shall be charged one residential annual Program fee for each unit in the complex regardless of the actual occupancy of a given unit. Manufactured home parks and developments shall be charged one residential annual Program fee for each space in the development regardless of the actual occupancy of a given space.

- b. Property used for commercial or industrial purposes within the Program Service Area and shown with a structure or structures of some positive value on the records of the Hamilton County Assessor of Property shall initially be charged an annual fee of \$108.00 per impervious acre of development on the property but not less than the annual residential Program fee.
- c. Governmental, institutional, other tax-exempt properties, state tax relief properties and properties exempted by statute or action of the Management Committee shall not be charged an annual Program fee.

2. **ANNUAL FEE REVISION PROCEDURES:** The annual Program fee shall only be changed through the following multi-step procedure:

- a. During the first quarter of each calendar year, the Program Manager shall perform a review of the Program's financial condition, including an estimate of probable income and expenses for the upcoming year. The Program Manager shall initially utilize the Hamilton County Finance Department to assist with the annual review. If the Program Manager is dissatisfied with the support provided by the Finance Department, the Program Manager shall be authorized to utilize, under the procurement procedures of the County, a professional accounting firm to assist with the annual review. Should the annual review indicate that the Program will experience a significant budget imbalance in the coming year, the Program Manager shall present to the Management Committee a request to revise the annual fee structure to correct the imbalance.
- b. The Management Committee shall, at the next meeting following the receipt of the Program Manager's recommendation, examine the annual financial review and the Program Manager's recommendation for the adjustment in the annual fees. If no regular meeting of the Management Committee is scheduled within 30 calendar days of the issuance of the Program Manager's recommendation, the Chair of the committee shall call a special meeting. The Management Committee shall be free to adjust the proposed revisions, if any, in the amounts of the annual fees to any amounts which are supported by three-fourths of the members of the Management Committee.
- c. Once the Management Committee adopts an annual fee revision recommendation, the Program Manager shall prepare a draft resolution incorporating the recommendation for action by the Hamilton County Commission. The Program Manager shall submit the draft resolution for

consideration at an upcoming meeting of the County Commission, as allowed by the rules and procedures of the County Commission. The County Commission may adopt the recommendation, reject the recommendation, or adopt a different annual fee revision based on their own assessment of the Program's financial situation, subject to the limitations described in the Interlocal Agreement establishing the Program. The action of the County Commission shall be final for this revision cycle.

### **SPECIAL PROGRAM FEES**

The Program shall be allowed to charge Special Program Fees to individuals and organizations for specific activities which require input from the Program staff. Because of the service-related nature of the Special Program Fees, they shall be applicable to all stormwater dischargers located within the Program Service Area, including dischargers who may be exempt from the Annual Program Fee. Special Program Fees shall comply with the following provisions:

1. **TYPES:** Special Program Fees may be charged for the following types of services:
  - a. **Development Plans Review:** Any person or organization with planned construction that will disturb one acre or more shall submit development plans to the Program staff which describe in detail the planned construction's conformance with Program requirements for stormwater pollution control at the site of the development. "Disturb" as used in this section shall identify any activity which covers, removes, or otherwise reduces the area of existing vegetation at a site, even on a temporary basis.
  - b. **Erosion Control Plans Review:** Any person or organization with planned construction that will disturb one acre or more shall submit erosion control plans to the Program staff which describe in detail the planned construction's conformance with Program requirements for erosion control at construction sites. It is understood that the Erosion Control Plans Review fee shall include on-site inspections by qualified member(s) of the Program staff of the installed erosion control measures as defined by the approved erosion control plans.
  - c. **Erosion Control Non-Compliance Re-Inspection:** Should any on-site inspection of installed erosion control measures reveal that the measures have been improperly installed, prematurely removed, damaged, or have otherwise failed, the inspecting Program staff member shall immediately inform the responsible party of the deficiency, the responsible party's obligation to bring the installation into compliance with the approved plan within 48 hours, and the assessment of a re-inspection fee. The re-inspection fee shall reimburse the Program for the costs associated with an inspector's returning to a specific site out of the normal inspection sequence.
  - d. **Non-Stormwater Discharge Permit Review:** Commercial and industrial facilities located within the Program Service Area may be allowed to discharge non-polluting wastewater into the stormwater collection system. All such discharges, unless covered by a permit issued directly by TDEC or successor agency, must be covered by a discharge permit issued by the Program staff and renewed annually. Fees charged by the Program for such Non-

Stormwater Discharge Permits will include the costs of the periodic sampling and testing of the discharge, determination of the amount of the discharge, and any costs associated with reviewing and issuing the permit and maintaining necessary records pertaining to the permit.

- e. Other: The Management Committee may from time to time identify other specific activities which warrant a Special Program Fee. No such fee shall be enacted unless it is endorsed by the County Mayor and approved by the County Commission. Procedures for establishing a Special Program Fee other than those identified above shall generally comply with the procedures for making revisions to the Annual Program Fee as described in the preceding section.
- 2. **INITIAL SPECIAL PROGRAM FEES:** The recommended amounts of the various Special Program Fees shall initially be adopted by the Management Committee and submitted to the Hamilton County Commission for consideration. The County Commission shall then establish the initial Special Program Fees. Procedures for the initial enactment of the Special Program Fees shall generally follow those established for revisions to the Annual Program Fees as set forth hereinbefore.
  - 3. **SPECIAL PROGRAM FEE REVISION PROCEDURES:** Special Program Fees shall be changed only through the following multi-step procedure:
    - a. The Program Manager shall review the Special Program Fees during the annual Program financial review required under the "Annual Fee Revision Procedures" described in a previous section. The Program Manager shall determine the financial viability of each Special Program Fee and present to the Management Committee requests for revision of those fees, if any, which the Program Manager believes should be adjusted.
    - b. Once the Program Manager has submitted his or her recommendations, revisions of the Special Program Fees shall comply with the procedures for Management Committee review and County Commission action identified under the "Annual Fee Revision Procedures" described hereinbefore.
    - c. Limitations as to the frequency of revision and the amount of an individual revision established under the "Annual Fee Revision Procedures" described hereinbefore shall also apply to Special Program Fees.

#### **COLLECTION AND HANDLING OF ANNUAL FEES**

Annual Program Fees shall be collected, held, dispersed, and accounted for as outlined below:

- 1. **ANNUAL FEE COLLECTION:** The County and the participating cities agree that their preferred method for collecting the Annual Program Fees is for the Hamilton County Trustee ("the Trustee") to collect the fee as an additional item on the annual ad valorem tax notice sent to all residential, commercial, and industrial stormwater dischargers in each city. Should a court of competent jurisdiction find that this collection method is invalid under applicable local ordinance or Tennessee law, and should said finding be upheld on appeal if challenged by the Program, then the Management Committee

shall be authorized to contract with the water utility or utilities which serve each participating city to collect the Annual Program Fee on behalf of the Program. It is understood and agreed that the fees charged by the Trustee or the water utility(ies) for collecting the Annual Program Fees shall be considered direct Program costs which should be included in the annual budget for the Program.

2. **ANNUAL FEE COLLECTION PROCEDURES:** If the ad valorem tax collection method is used, each participating city shall decide, at its sole discretion, whether the Annual Program Fee is to appear on the city tax notice or the County tax notice sent to dischargers within the corporate limits of the city. The city's decision will determine which of the following collection procedures apply within the city:
  - a. If the city elects to have the Annual Program Fee included on the County tax notice, the Trustee will, upon receipt of payment, direct the payment to an account dedicated to the Program (the "Dedicated Program Account") managed by the County Finance Administrator as further described hereinafter. By selection of this collection procedure, the city authorizes the County to collect the Annual Program Fee due from all non-exempt dischargers within the corporate limits of the city and to impose "late payment penalties" on delinquent dischargers equal to the amount of any collection costs associated with the collection of the Annual Program Fee.
  - b. If the County Trustee is responsible for the collection of the city's ad valorem taxes and the city elects to have the Annual Program Fee included on the city tax notice as a portion of a larger stormwater fee or tax, the city will pay to the Program each year an amount equal to the total of the Annual Program Fees due on all properties within the corporate limits of the city as determined by application of the formulas described hereinbefore. Such payment shall be made not later than April 1st of each year, and late charges calculated with the Trustee's formula for delinquent taxes shall be applied to payments received after that date. The city's payment shall be submitted to the County Finance Administrator, who will, upon receipt of payment, deposit the payment in the Dedicated Program Account managed as further described hereinbelow.
3. **DISPOSITION OF FUNDS COLLECTED UNDER THE ANNUAL PROGRAM FEE:** All funds received by the County Finance Administrator from the collection of Annual Program Fees, from the County Trustee, the participating cities, or other collection agent, shall be deposited into the Dedicated Program Account. All Program expenses shall be paid by the County Finance Administrator from the Dedicated Program Account. The County Finance Administrator may initially pay Program expenses from general County resources and then periodically reimburse the County from the Dedicated Program Account.
4. **ALLOWABLE PROGRAM EXPENSES:** It is understood and agreed that the following items are Program expenses which are to be reimbursed to the County from the Dedicated Program Account:
  - a. Salary costs of the Program staff, including statutory and customary benefits typical for employees of the County.

- b. Office space rental for the space occupied by the Program staff as allowed below:
- 1) If possible, the Program staff is to be located in the Development Resource Center, 1250 Market Street, Chattanooga, Tennessee ("the DRC"). It is understood and agreed that the County is charged for the use of certain office spaces in the DRC and that the Program shall reimburse the County for the space used by the Program staff at the rate charged to the County for similar office space in the DRC. If necessary, the Chair of the Management Committee shall sign a fixed term lease or sublease for said space as authorized by action of the committee.
  - 2) If the Program staff cannot be located in the DRC but is located in space owned by the County, the Program shall reimburse the County at a rental rate mutually agreed to by the County and the Management Committee. If necessary, the Chair of the Management Committee shall sign a fixed term lease for said space as authorized by action of the committee.
  - 3) If the Program staff cannot be located in the DRC or space owned by the County, the Program shall be responsible for the actual rental cost of the space occupied by the Program staff as approved by the Management Committee. The Chair of the Management Committee shall sign a fixed term lease for such space as authorized by action of the committee.
  - 4) Utility, telephone, computer network, janitorial, and similar charges associated with the space occupied by the Program staff but not covered under the base rental rate shall be reimbursable at cost.
- c. Equipment and tools used by the Program staff in performance of their duties under the Program. All such equipment and tools shall be acquired in accordance with the procurement rules, regulations, and procedures of the County. The full cost of the equipment shall be reimbursable at the time of purchase.
- d. Vehicles used by the Program staff in performance of their duties under the Program. All such vehicles shall be acquired in accordance with the procurement rules, regulations, and procedures of the County. Vehicles shall be permanently assigned to the Program from the County's fleet, and the County shall be reimbursed at a mutually agreeable reimbursement method for each vehicle.
- e. Laboratory testing fees including the costs associated with delivering samples to the testing laboratory. Laboratory testing services shall be procured under fixed unit price contracts with qualified testing providers in accordance with the procurement rules, regulations, and procedures of the County. Such contracts shall have fixed terms not exceeding 3 years.
- f. Fuel and other consumables used by the Program staff in performance of their duties under the Program. The Management Committee shall determine the best and most economical source to be used for each such consumable in

accordance with the procurement rules, regulations, and procedures of the County.

- g. Maintenance and technical service charges associated with maintaining the vehicles and equipment used by the Program staff in performance of their duties under the Program in fully operational and safe working order.
  - h. Other: Consultants, liability insurance, officers and directors insurance, and other costs approved by the Management Committee as authorized by the Interlocal Agreement or these Standard Operating Procedures.
5. **INDEPENDENT AUDIT:** The County expressly agrees that the income and expenses of the Program shall be fully disclosed in the audit of the financial records of the County performed by a professional accounting consultant, as selected by the County, on an annual basis. The Program income and expenses shall be shown as independent items in the audit separate from all other County revenues and expenses. The audit shall also fully disclose the balance, if any, in the Dedicated Program Account, as described hereinbefore, at the end of the period covered by the audit.

#### **COLLECTION AND HANDLING OF SPECIAL PROGRAM FEES**

Special Program Fees shall be collected, held, dispersed, and accounted for as outlined herein below:

1. **SPECIAL PROGRAM FEE COLLECTION:** The Program Clerk, as described hereinbefore, shall receive all payments for Special Program Fees and shall record each payment in a ledger maintained by the clerk within the offices of the Program staff. Payments shall comply with the following guidelines:
  - a. Payments shall be made by personal check, cashier's check, certified check, money order, electronic funds transfer, or other means approved by the Management Committee. Cash payments shall NOT be acceptable. Should a personal check be rejected or returned due to insufficient funds or other irregularity, the permit purchased with said check shall be immediately nullified and the Program staff shall issue a stop work or cease and desist order, as appropriate, for the activity(ies) covered by such permit. A "returned check" penalty, as authorized by the Management Committee, shall be added to the amount of the Special Program Fee, and personal checks from the purchasing party shall no longer be accepted by the Program.
  - b. The Program Manager shall make all technical and financial arrangements necessary to facilitate the receipt of payment by electronic funds transfers. A handling charge shall be added to the amount of any Special Program Fee paid by electronic funds transfer to offset the service charges to the Program associated with the use of this payment device.
2. **DISPOSITION OF FUNDS COLLECTED UNDER SPECIAL PROGRAM FEES:** Special Program Fee payments shall be handled as follows:
  - a. Check and money order payments shall be received by the Program Clerk, who will transmit the payment instruments to the staff of the County Finance

Administrator. The Finance Administrator will be responsible for depositing the funds in the Dedicated Program Account.

- b. Electronic funds transfer payments shall be directly deposited to the Dedicated Program Account by the financial institution issuing the payment. Electronic payment confirmation notifications shall be sent to the staff of the County Finance Administrator. The staff of the County Finance Administrator shall send a copy to, or otherwise notify, the Program Clerk confirming the receipt of such payments.
3. **INDEPENDENT AUDIT:** The County expressly agrees that the aggregate total of all Special Program Fee payments shall be fully disclosed as income to the Program in the annual audit of the financial records of the County performed by a professional accounting consultant.

### **CIVIL DAMAGE ASSESSMENTS**

The enabling legislation passed by each participating city and the County establishing the Program within their respective jurisdictions shall include the identification of certain activities which shall be considered civil violations of the pollution control objectives of the Program. To qualify as civil violations, the objectionable activities shall have to be performed without an understanding the potential damage to the water environment, of limited scope, and non-chronic in nature. Objectionable activities not meeting all three of the above limitations may be considered criminal violations of stormwater pollution control regulations subject to enforcement action as described previously. Civil violations of Program requirements shall be subject to damage assessments as described below:

1. **IDENTIFICATION OF OBJECTIONABLE ACTIVITIES:** The enabling legislation passed by the City and the County establishing the Program within their respective jurisdictions shall identify and describe the specific activities which, because of their potential to damage the water environment, shall be subject to civil damage assessments.
2. **DAMAGE ASSESSMENTS:** In the enabling legislation passed by the City and the County establishing the Program within their respective jurisdictions, each party shall adopt a standardized schedule of damage assessments which shall be imposed upon persons and organizations responsible for each type of objectionable activity. Said damage assessments are not to be construed as a fine or penalty, but rather shall be considered as a monetary approximation of the damage to the environment which may result from the activity. Said damage assessments are also to be construed as an inducement for stormwater dischargers to follow good pollution control practices. The standardized damage assessment schedule may include provisions for automatically increasing the amount of the assessment for subsequent recurrences of the same objectionable activity by the same party.
3. **CITATIONS:** As discussed hereinbefore, the Program staff shall issue citations for civil violations of Program requirements. Such citations shall include the amount of the damage assessment applicable to the specific objectionable activity identified by the Program staff. Because such citations are not to cover criminal activities, the burden of proof shall not be as exhaustive nor shall the rules of evidence be as restrictive as are typically required in criminal law. However, the Program staff shall determine, to its

own satisfaction, that the objectionable activity has actually occurred and that the party being cited is the party responsible for the activity. All citations shall be reviewed and approved by the Program Manager prior to their issuance and shall be issued under the signature of the Program Manager.

4. **APPEALS:** Civil citations issued by the Program staff and the amount of the damage assessment specified by a citation may be appealed in accordance with procedures defined hereinbefore.
5. **HANDLING AND DISPOSITION OF FUNDS GENERATED FROM CIVIL CITATIONS:** Funds collected by the Program resulting from the application of damage assessments shall be handled in accordance with the procedures established for Special Program Fees as described hereinbefore.

#### **AMENDING THE STANDARD OPERATING PROCEDURES**

The need to amend these Standard Operating Procedures may arise over time as the Program evolves, new regulations and permits are issued, new communities join the Program, or for other reasons not now apparent. Such amendments shall require a four-step process as described below:

1. **MOTION TO CONSIDER:** Any member of the Management Committee shall be allowed to offer an amendment to these Standard Operating Procedures at any meeting of the Management Committee. Should a "Motion to Consider" the proposed amendment receive the support of a majority of the members present and voting at the meeting, the Program Manager shall be directed to study and evaluate in detail the probable Program impacts of the amendment and to report such findings at the next meeting of the committee, unless a longer assessment period is allowed in the Motion to Consider.
2. **MOTION TO RECOMMEND:** The Program Manager shall perform a detailed evaluation of the probable impacts of the proposed amendment and report his or her findings at the Management Committee meeting designated in the Motion to Consider. At said meeting, the Management Committee shall further consider the proposed amendment and make revisions and/or modifications acceptable to a majority of the members present and voting at the meeting. Once these deliberations are complete, a "Motion to Recommend" the proposed amendment shall be voted on by those members present at the meeting. Should the Motion to Recommend the proposed amendment receive the support of a majority of the members present and voting at the meeting, the committee Secretary shall be directed to formally poll the membership.
3. **POLLING THE MEMBERS:** The committee Secretary shall then formally poll all members of the Management Committee by written ballot. Each such ballot shall contain the final agreed-to language of the proposed amendment and shall require the member to confirm his or her vote by signature. If the proposed amendment is supported by three-fourths of the members of the Management Committee, it shall be forwarded to the Hamilton County Commission with a recommendation for adoption by the Management Committee.
4. **COMMISSION ACTION:** The Program Manager shall prepare a resolution incorporating the recommended amendment for action by the Hamilton County



Commission. When the resolution is ready, the Program Manager shall submit the draft resolution for consideration at a meeting of the County Commission, as allowed by the rules and procedures of the County Commission. The County Commission may adopt or reject the amendment as offered. The County Commission may not unilaterally revise or modify the offered amendment, but may return the proposed amendment to the Management Committee with a recommendation for revisions and/or modifications.