

**Monday, June 8, 2020**

**Work Session  
4:30 PM**

**Beer Board  
6:00 PM**

**BOARD OF MAYOR AND ALDERMEN – REGULAR MEETING  
Immediately after Beer Board**

1. Prayer
2. Pledge Of Allegiance
3. Roll Call
4. Approval Of Agenda
5. Approve Minutes Of May 11, 2020 And June 1, 2020

Documents:

[BMA MINUTES 5-11-2020.PDF](#)  
[BMA MINUTES 6-1-20.PDF](#)

6. Public Comments
7. Public Hearing – Ordinance 2020-7 Amending Chapter 4, Title 7 Of The City Of Millington Municipal Code Regarding The Sale Of Fireworks
8. Consideration Of Ordinance 2020-7 Amending Chapter 4, Title 7 Of The City Of Millington Municipal Code Regarding The Sale Of Fireworks – Final Reading

Documents:

[ORDINANCE 2020-7 AMENDING FIREWORKS ORDINANCE.PDF](#)

9. Public Hearing – Ordinance 2020-8 Amending The FY20 Budget For All Funds Of The Millington Municipal Schools
10. Consideration Of Ordinance 2020-9 Adopting The Fiscal Year 2021 Operating And Capital Improvement Budgets For The City Of Millington And To Establish Budget Related Procedures And Controls – First Reading

Documents:

[ORDINANCE 2020-9 APPROVAL OF FY21 BUDGET.PDF](#)

11. Consideration Of Ordinance 2020-10 Levying And Assessing A Tax Rate For Ad Valorem Taxes Upon Real Property And Personal Property In The City Of Millington For Tax Year 2020 (FY21) – First Reading

Documents:

[ORDINANCE 2020-10 APPROVING FY 21 TAX RATE.PDF](#)

12. Consideration Of Ordinance 2020-11 Repealing And Replacing Chapter 20 Of Title 14 Of City Code On Stormwater Management And Pollution Control – First Reading

Documents:

[ORDINANCE 2020-11 STORMWATER.PDF](#)

13. Consideration Of Resolution 28-2020 Approving Services Agreement Between The City Of Millington And The Memphis And Shelby County Office Of Construction Code Enforcement

Documents:

[RESOLUTION 28-2020 COOPERATIVE AGREEMENT FOR CODES AND PERMITS.PDF](#)

14. Consideration Of Resolution 29-2020 Approving A Revised Internal Control Manual

Documents:

[RESOLUTION 29-2020 -APPROVE REVISED INTERNAL CONTROL MANUAL.PDF](#)

15. Consideration Of Resolution 30-2020 Declaring Two Parcels Of Land On West Side Of Church Street At Buford Avenue As Surplus

Documents:

[RESOLUTION 30-2020 DECLARE PARCELS ON CHURCH STREET AS SURPLUS PROPERTY.PDF](#)

16. Consideration Of Resolution 31-2020 Approving Sale Of Surplus Property At 7743 Church Street  
Available prior to meeting.

17. Board Reports

18. Adjourn

#### **ADA NOTICE**

**The City seeks to meet the needs of all individuals with disabilities. Should you need an accommodation to attend, speak or hear at this meeting, please call City Hall at 901.873.5701 at least eight (8) working hours in advance of the meeting.**

CITY OF MILLINGTON BOARD OF MAYOR AND ALDERMEN  
MINUTES OF REGULAR MEETING  
April 13, 2020

Call to Order, Prayer, and Pledge of Allegiance

The Board of Mayor and Aldermen of the City of Millington, TN met in regular session at Millington City Hall Chambers on Monday, May 11, 2020. The meeting was called to order at 6:01 pm and Mr. McGhee led everyone in prayer, followed by the Pledge of Allegiance.

Roll Call and Quorum Determination

The following Board members were present:

Mayor Terry Jones  
Bethany Huffman  
Al Bell  
Jon Crisp  
Larry Dagen  
Thomas McGhee  
Don Lowry  
Mike Caruthers

A quorum being present, the following proceedings were held:

4. Approval of Agenda

Approve Agenda  
Motion: Huffman  
Second: Lowry  
Vote: unanimous consent to approve

5. Approve Minutes of April 13, 2020

Approve Minutes  
Motion: Crisp  
Second: Dagen  
Vote: unanimous consent to approve

Note: Due to the Covid-19 pandemic, citizens were encouraged to submit their comments by email to [cityclerk@millingtontn.gov](mailto:cityclerk@millingtontn.gov) or by mail to 7930 Nelson Road for the Public Comments sections and Public Hearings. These comments would be read into and made a part of the record. No comments were received.

6. Public Comments

No comments.  
Close Public Comments  
Motion: McGhee  
Second: Crisp  
Vote: unanimous consent to close

7. Consideration of Resolution 17-2020 Expressing Appreciation to Rachael Nicole Pindell of Over Sixteen Years of Service to the Citizens of Millington

Close Public Hearing  
Motion: Bell  
Second: McGhee  
Vote: unanimous consent to approve

8. Financial Presentation by Finance Director

Moody's has issued a credit of the City's credit position on May 1<sup>st</sup>. They stated that the City's credit is sound and upheld the A-1 rating. The financial statements that the board received last week show that as of last month, revenues exceeded expenditures. However, due to Covid-19 sales tax revenues for the final quarter of the fiscal year are expected to be significantly lower than budgeted. The actual impact may not be known for several months. Worst case scenario would be a slight use of fund balance for the year. The TN Comptroller has encouraged all municipalities to adopt as reasonable a budget as they can based on expected revenues for next year instead of continuation budgets.

9. Public Hearing - Ordinance 2020-6 Amending Title 13, Property Maintenance Regulations, of the Millington Municipal Code  
 Close Public Hearing  
 Motion: Lowry  
 Second: Caruthers  
 Vote: unanimous consent to close
  
10. Consideration of Ordinance 2020-6 Amending Title 13, Property Maintenance Regulations, of the Millington Municipal Code - Final Reading  
 Approve Ordinance 2020-6  
 Motion: McGhee  
 Second: Bell  
 Vote: unanimous vote to approve
  
11. Consideration of Ordinance 2020-7 Amending Chapter 4, Title 7 of the City of Millington Municipal Code Regarding the Sale of Fireworks - First Reading  
 Approve Ordinance 2020-7  
 Motion: Lowry  
 Second: Caruthers  
 Vote: unanimous vote to approve on first reading
  
12. Consideration of Ordinance 2020-8 Amending the FY20 Budget for All Funds of the Millington Municipal Schools- First Reading  
 Approve Ordinance 2020-8  
 Motion: McGhee  
 Second: Bell  
 Vote: unanimous vote to approve on first reading
  
13. Consideration of Resolution 18-2020 Authorizing the Execution and Delivery of a Bond and Loan Agreement Modification Agreement Amending That Certain \$2,000,000 Local Government Loan Program Bond, Series 2018 (City of Millington School System Loan), Issued by the Public Building Authority of the City of Clarksville, Tennessee, and That Certain Loan Agreement, Dated November 21, 2018, Entered into by the City in Connection with a Loan  
 Approve Resolution 18-2020  
 Motion: Lowry  
 Second: Crisp  
 Vote: unanimous consent to approve  
 This modification will lower the interest rate from 4.16 to 2.83 with a savings of approximately \$300,000 over the term of the loan.
  
14. Consideration of Resolution 19-2020 Authorizing Application for Grant From State of Tennessee Under Public Chapter 651  
 Approve Resolution 19-2020  
 Motion: Huffman  
 Second: Dagen  
 Vote: unanimous consent to approve  
 The City of Millington is allowed to receive \$265,892.00, and this will be used to help offset City's 20% obligation on the Raleigh-Millington Bridge project.
  
15. Consideration of Resolution 20-2020 Approving Acquisition of Cameras and Related Services for Crime Reduction from Flock Group Inc. and Related Grant from Shelby County Government to Fund Acquisition  
 Approve Resolution 20-2020  
 Motion: Lowry  
 Second: McGhee  
 Vote: unanimous consent to approve  
 This money will allow the City to acquire 13 additional cameras from Flock Group, Inc. Twelve of these cameras will be in fixed locations with one mobile unit.
  
16. Consideration of Resolution 21-2020 Approving Barge Design Solutions, Inc. for Big Creek Stream Quantification Tool Project in Support of the Big Creek Resiliency Project  
 Approve Resolution 21-2020  
 Motion: Crisp  
 Second: Huffman  
 Vote: unanimous consent to approve

17. Consideration of Resolution 22-2020 Approving Award of RFP 2020-3 Installation of Water Meters

Approve Resolution 22-2020

Motion: McGhee

Second: Lowry

Vote: unanimous consent to approve

There are approximately 3, 175 of the new meters that need to be installed.

18. Consideration of Resolution 23-2020 Approving Appointment to the Millington Housing Authority Board

Approve Resolution 23-2020

Motion: Caruthers

Second: Crisp

Vote: unanimous consent to approve

Board Reports

Mr. McGhee announced that the Airport Authority has met via zoom chats, and there will not be an air show this year. Mr. Goforth gave a brief update on the upcoming Planning Commission agenda.

Adjourn

There being no further business, the meeting was adjourned at 6:41 pm

These minutes are approved as of the 8<sup>th</sup> day of June, 2020.

\_\_\_\_\_  
Terry Jones, Mayor

\_\_\_\_\_  
Karen Findley, City Clerk

CITY OF MILLINGTON BOARD OF MAYOR AND ALDERMEN  
MINUTES OF CALLED MEETING  
June 1, 2020

Call to Order, Prayer, and Pledge of Allegiance

The Board of Mayor and Aldermen of the City of Millington, TN met in a called session at Millington City Hall Chambers on Monday, June 1, 2020. The meeting was called to order at 5:02 pm, and Mr. McGhee led everyone in prayer, followed by the Pledge of Allegiance.

Roll Call and Quorum Determination

The following Board members were present:

Mayor Terry Jones  
Bethany Huffman  
Al Bell  
Jon Crisp  
Larry Dagen  
Thomas McGhee  
Don Lowry  
Mike Caruthers

A quorum being present, the following proceedings were held:

4. Approval of Agenda

Approve Agenda  
Motion: Lowry  
Second : McGhee  
Vote: unanimous consent to approve

5. Consideration of Resolution 24-2020 Approving Award of Bid 2020-5 Raleigh-Millington Bridge Over Big Creek

Approve Resolution 24-2020  
Motion: Crisp  
Second: Bell  
Vote: unanimous consent to approve

Dement Construction Co. was awarded the bid with a contract price not to exceed \$4,295,072.15.

6. Consideration of Resolution 25-2020 Approving Award of Bid 2020-6 Intersection Improvements Project for Raleigh-Millington Road at TN-385.

Approve Resolution 25-2020  
Motion: Lowry  
Second: Caruthers  
Vote: unanimous consent to approve

The bid was awarded to Encor, LLC in an amount not to exceed 591,156.80, as the lowest and best bidder.

7. Consideration of Resolution 26-2020 Approving Award of Bid 2020-7 Intelligent Transportation Expansion Project

Approve Resolution 26-2020  
Motion: McGhee  
Second: Lowry  
Vote: unanimous consent to approve

McCrary Electric Company was the lowest and best bidder, with a contract price not to exceed \$775,492.85.

8. Consideration of Resolution 27-2020 Approving Purchase of Property at 5114 Navy Road

Approve Resolution 27-2020  
Motion: Caruthers  
Second: Bell  
Vote: unanimous consent to approve with Ms. Huffman abstaining from the vote

Adjourn

There being no further business, the meeting was adjourned at 5:20 pm  
These minutes are approved as of the 8<sup>th</sup> day of June, 2020.

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Terry Jones, Mayor

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Karen Findley, City Clerk

ORDINANCE 2020-7

ORDINANCE TO AMEND CHAPTER 4, TITLE 7 OF THE CITY OF MILLINGTON  
MUNICIPAL CODE REGARDING THE SALE OF FIREWORKS

WHEREAS, Tennessee Code Annotated empowers the City of Millington to pass proper ordinances governing the issuance and revocation or suspension of license for the storage, sale, and/or distribution of Fireworks within the corporate limits of the City: and

WHEREAS, the Board of Mayor and Aldermen deem it necessary for the purpose of promoting the health, safety, morals and general welfare of the City to amend said Millington Municipal Code.

NOW, THEREFORE, BE IT ORDAINED by the Board of Mayor and Aldermen of the City of Millington, Tennessee, that Title 7, Chapter 4, of the Millington Municipal Code be amended as follows:

- 1) Chapter 7-402 (11) shall be deleted and replaced with the following language:

(11) Applicant shall pay \$100 cleanup deposit per location, which shall be refunded after the fireworks season or used by the city to clean up the retail fireworks site if needed. Failure to cleanup the location may result in forfeiture of the deposit, the incurring of additional cleanup costs and the revocation of the permit.

- 2) Chapter 7-402 (12) shall be deleted and replaced with the following language:

(12) After the application has been submitted and approved, a city codes inspector shall inspect the site for compliance with applicable codes and ordinances. The permit holder must contact the City for a post compliance inspection after the completion of the sales period to verify the condition of the site is in accordance with the terms of this ordinance.

- 3) Chapter 7-405 shall be deleted and replaced with the following language:

7-405. Storing and structures. No person may smoke within a tent where fireworks are sold. No person selling fireworks may permit the presence of lighted cigars, cigarettes, pipes or vapor products (as defined by T.C.A. 39-17-1503) within a tent where fireworks are offered for sale. At all places where fireworks are stored or sold, there must be posted signs with the words "Fireworks- No Smoking" in letters not less than four (4) inches high. An inspected and currently tagged fire extinguisher with a minimum 2A rating and one pressurized water type fire extinguisher must be present at each retail fireworks site. Fireworks sold at retail may be sold only from a freestanding tent as described in 7-406. Fireworks must be stored at least ten (10) feet away from windows and other areas where the sun may shine through. Fireworks are not permitted to be stored in residential districts, except for personal use.

- 4) Chapter 7-406 shall be deleted and replaced with the following language:

7-406. Limitations on tents. Only tents meeting the current adopted International Building Code and the Life Safety Code (NFPA 101) may be used for the retail sale of fireworks. Ground fault interrupter protection must be used for power cords that supply power to tents. Electrical wiring inside tents shall be securely installed, without splices, and lamps shall be protected from accidental breakage by a suitable fixture or guard. No tent from which fireworks are sold may exceed 3,200 square feet. Fireworks may not be stored in a permanent building. Tents shall not be erected any more than seven (7) days prior to the sale of fireworks and must be removed within seven (7) days after the completion of the sales period. No sleeping shall be allowed within tents and or stands.

BE IT FURTHER ORDAINED that this ordinance shall take effect upon its final passage, the public health, safety and welfare requiring it.

Public Hearing: June 8, 2020  
First Reading: May 11, 2020  
Final Reading: June 8, 2020

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Terry G. Jones, Mayor

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Karen Findley, City Clerk

**ORDINANCE NO. 2020-9**

**AN ORDINANCE TO ADOPT THE FISCAL YEAR 2021 OPERATING AND CAPITAL IMPROVEMENT BUDGETS FOR THE CITY OF MILLINGTON AND TO ESTABLISH BUDGET RELATED PROCEDURES AND CONTROLS**

WHEREAS, Title IX, Sections 9.02 through 9.09 of the Millington Municipal Code establish requirements for the annual budget adoption process; and

WHEREAS, The pandemic caused by COVID-19 has created many changes to the lives and needs of our citizens and the revenues that fund the City; and

WHEREAS, The effect of COVID-19 on over two million dollars (\$2,000,000.00) of budgeted but not yet collected General Fund revenues is still unknown for FY20; and

WHEREAS, This budget has been prepared assuming the continuation of all municipal services and programs at historical levels funded with adequate revenues similar to historical revenues. However, the City intends to closely monitor revenues and may elect to draw on adequate reserves such as the Financial Stabilization Account (committed General Fund Balance), if necessary; and

WHEREAS, The City is prepared and will reduce selected provided services, programs and/or departments during FY21 if revenues are falling significantly below projected levels.

BE IT ORDAINED by the Board of Mayor and Alderman of the City of Millington, Tennessee that the city projects June 30, 2020 fund balances (equity in business terminology) for each Fund as follows:

<b>OPERATING FUNDS</b>	
General Fund	\$ 8,903,805
State Street Aid Fund	\$ 202,685
State Drug Fund	\$ 81,214
DEA Drug Fund	\$ 144,629
Storm Water Fund	\$ 284,727
Sanitation Fund	\$ 760,435
General Purpose School Fund	\$ 8,879,968
School Federal Projects Fund	\$ 0
School Cafeteria Fund	\$ 448,331
Water Fund	\$ 8,869,723
Sewer Fund	\$ 17,157,248
<b>CAPITAL IMPROVEMENT FUNDS</b>	
Capital Improvement Program Fund	\$ 2,565,144
School Capital Projects Fund	\$ 3,256,045

BE IT FURTHER ORDAINED, That the Board of Mayor and Alderman of the City of Millington, Tennessee that fund budgets herein adopted expect to use fund balance, (appropriations and operating transfers out exceed the revenues and transfers in) for each fund in FY2021 as follows:

<b>OPERATING BUDGETS</b>	
General Fund	\$ 1,605,000
State Drug Fund	\$ 23,550
DEA Drug Fund	\$ 115,150
Sanitation Fund	\$ 238,522

BE IT FURTHER ORDAINED, That the Board of Mayor and Alderman of the City of Millington, Tennessee project anticipated revenues for FY2021 from all sources for each Fund as follows:

OPERATING BUDGETS	
General Fund	\$ 11,205,747
State Street Aid Fund	\$ 428,612
State Drug Fund	-
DEA Drug Fund	\$ 10,050
Storm Water Fund	\$ 397,250
Sanitation Fund	\$ 860,200
General Purpose School Fund	\$ 24,824,446
School Federal Projects Fund	\$ 1,921,698
School Cafeteria Fund	\$ 1,620,211
Water Fund	\$ 1,914,810
Sewer Fund	\$ 2,309,944
CAPITAL IMPROVEMENT BUDGETS	
Capital Improvement Program Fund	\$ 1,005,400
School Capital Projects Fund	\$ 750,000

BE IT FURTHER ORDAINED, That the Board of Mayor and Alderman of the City of Millington, Tennessee authorizes and appropriates operating transfers between funds for Fiscal Year 2021 as follows:

	Transfers In	Transfers Out
OPERATING BUDGETS		
General Fund	\$ -	\$ 1,090,000
State Street Aid Fund	\$ 90,000	-
General Purpose School Fund	\$547,903	\$ -
School Federal Projects Fund	\$ -	\$ 47,903
CAPITAL IMPROVEMENT BUDGETS		
Capital Improvement Program Fund	\$500,000	\$ -

BE IT FURTHER ORDAINED, That the Board of Mayor and Alderman of the City of Millington, Tennessee adopts and appropriates the expenditure/expense budget for each fund for FY2021 as follows:

OPERATING BUDGETS	
General Fund	\$ 11,720,747
State Street Aid Fund	\$ 635,100
State Drug Fund	\$ 23,550
DEA Drug Fund	\$ 125,200
Storm Water Fund	\$ 397,250
Sanitation Fund	\$ 1,098,722
General Purpose School Fund	\$ 25,209,143
School Federal Projects Fund	\$ 1,921,697
School Cafeteria Fund	\$ 1,603,394
Water Fund	\$ 1,914,810
Sewer Fund	\$ 2,309,944
CAPITAL IMPROVEMENT BUDGETS	
Capital Improvement Program Fund	\$ 1,505,400
School Capital Projects Fund	\$ 750,000

BE IT FURTHER ORDAINED, That the Board of Mayor and Alderman approve City Funding to Millington Municipal Schools in the amount of \$500,000.00 for operations, meeting the requirement for maintenance of effort, and \$230,219 for the debt payment to Shelby County Schools.

BE IT FURTHER ORDAINED, That the Superintendent of Schools and the Board of

Education shall adhere to the budget as approved and no action shall be taken to purchase goods or services that will cause any fund, office, or department to exceed its appropriations.

BE IT FURTHER ORDAINED, That the Superintendent of Schools, with any required approval of the Board of Education, may transfer funds between accounts within each fund and establish new accounts as necessary to properly account for the School District's finances in accordance with generally accepted accounting principles as long as the total appropriations or revenues of each individual fund is not increased or decreased.

BE IT FURTHER ORDAINED, That the Superintendent of Schools and the Schools Finance Director are authorized to increase the Schools Budget for grant revenues and expenditures once a grant has been awarded to the Schools and accepted by Resolution of the School Board if no matching funds are required or if adequate matching funds are available in the already appropriated budget. The Schools Finance Director shall provide written notice to the City Finance Director of the changes to their budget.

BE IT FURTHER ORDAINED, That the Board of Education with the assistance of the Superintendent of Schools and School's Finance Director shall submit monthly reports of revenue received and expenditures incurred to the City Finance Director.

BE IT FURTHER ORDAINED, That Operating Budgets are appropriated on a fiscal year basis, appropriations expire as of June 30 each year and any goods or services not received as of June 30 must be purchased from the new fiscal year budget, except that appropriations associated with purchase of fixed assets shall carry-forward. The FY21 or FY22, as appropriate, expenditure budget shall be increased equal to any outstanding encumbrance for the purchase of a fixed asset with an equal increase to the funding source (grant or planned use of fund balance).

BE IT FURTHER ORDAINED, That Capital Projects, except Schools, are authorized on a "project" basis and the appropriation expires on completion or cancellation of the project. The FY21 Capital Budget shall be increased for the unexpended portion of any appropriated project budgets as of June 30, 2020 with a corresponding amendment for the appropriate funding source. Projects shown in FY22 through FY25 for the Capital Improvement Program Fund and Schools Capital Projects Fund are preliminary needs but not approved until the budget for that fiscal year is approved.

BE IT FURTHER ORDAINED, That each office, department, and Elected Official, excluding Schools, which receives appropriations from the City shall adhere to the budget as approved and that no action shall be taken to purchase goods or services that will cause any fund, office, department or Elected Official to exceed its appropriations and that no personnel shall be hired or compensated, including any adjustments for any previous personnel actions found not to be in compliance with previous policy, unless provided for in this budget.

BE IT FURTHER ORDAINED, That the Finance Director is authorized to transfer funds between accounts and to establish new accounts as necessary to properly account for the City's finances in accordance with generally accepted accounting principles as long as the total appropriations or revenues for any fund is not increased or decreased. Budget transfers may be requested by Department Directors or the City Manager and shall be approved by both the Finance Director and City Manager.

BE IT FURTHER ORDAINED, That the City Manager and Finance Director are authorized to increase the budget for grant revenues and expenditures once a grant has been awarded to the City and accepted by resolution of the Board of Mayor and Aldermen if no matching funds are required or if adequate matching funds are available in the already appropriated budget and for pay supplements from the State for employees of the Fire and Police Departments.

BE IT FURTHER ORDAINED, That the Police Chief and Fire Chief is authorized to accept donations from individuals, businesses, civic and charitable organizations and foundations of up to \$4,500.00 per donation for Police and Fire Services, respectively. Such donations shall not be restricted by the donor except as to use for the public purpose of that department. Such donations shall be deposited to the City General Fund. The City Clerk shall acknowledge such donations in writing if required by the donor for tax purposes. The City Manager and Finance Director are authorized to increase the budget for these donations and to increase the appropriate expenditure accounts in a like amount each time a donation is received. Any donated funds received during a year and remaining unexpended at year-end shall be reported as committed fund balance and the following year's budget shall be increased as planned use of fund balance and the appropriate expenditure account.

BE IT FURTHER ORDAINED, That the City Manager and Finance Director are authorized to track the amount of funds collected by the Millington Library for lost or damaged books and to increase the General Fund budget revenue and the appropriate expenditure account in a like amount for these funds in order to allow the books to be replaced in a timely manner.

BE IT FURTHER ORDAINED, That a financial plan with detailed revenue, expenditure and transfers accounts shall be prepared in support of the budget and shall include a listing by classification and number of approved full time positions for each department and such document shall be attached hereto as Exhibit A.

BE IT FURTHER ORDAINED, That employees may only be hired and paid to the extent that funds have been included in the Fiscal Year 2021 Operating Budget. To the extent that a full time position is vacant or in a leave without pay status, a part-time or temporary employee may be hired with those available funds. All compensation and classification of positions shall be in compliance with the Compensation Policy separately adopted by the Board.

BE IT FURTHER ORDAINED, That the Board of Mayor and Aldermen hereby establish a Financial Stabilization Account (committed General Fund Fund Balance) at no less than 30% of the next fiscal year's appropriations, an Emergency Account (committed General Fund Fund Balance) in the amount of \$1,000,000 and a Library Account (committed General Fund Fund Balance) in an amount equal to 50% of collections from the red light camera/speed van violations beginning in FY12, less any expenditures that have been made from said funds. Below this level, unspent budgets will accrue toward this. Amounts above this level may be used as directed by the Board.

BE IT FURTHER ORDAINED, That any rate or fee established by previous resolution, ordinance or administrative action will remain in effect unless amended in the same manner as originally adopted.

BE IT FURTHER ORDAINED, That a grant to the Millington Chamber of Commerce in the amount not to exceed \$18,000 is hereby appropriated to promote the general welfare of the residents of the City of Millington and that disbursements of these funds shall not be made until the individual non-profit civic organization has fully complied with T. C. A. Section 6-54-111 et.seq.

BE IT FURTHER ORDAINED, That a grant to the Millington Y.M.C.A. in the amount not to exceed \$20,000 is hereby appropriated to promote the general welfare of the residents of the City of Millington and that disbursements of these funds shall not be made until the individual non-profit civic organization has fully complied with T. C. A. Section 6-54-111 et seq.

BE IT FURTHER ORDAINED, That the City Manager with the assistance of the Finance Director shall submit monthly reports of revenue received and expenditures incurred to the Board of Mayor and Alderman.

BE IT FURTHER ORDAINED, That all Ordinances heretofore passed in conflict herewith are hereby repealed insofar as they are in conflict with this Ordinance.

BE IT FURTHER ORDAINED, That this Ordinance shall take effect upon its second and final passage.

Public Hearing:

First Reading: June 8, 2020

Second Reading:

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Terry Jones, Mayor

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Karen Findley, City Clerk

ORDINANCE 2020-10

ORDINANCE TO LEVY AND ASSESS A TAX RATE FOR AD VALOREM TAXES UPON  
REAL PROPERTY AND PERSONAL PROPERTY IN THE CITY OF MILLINGTON  
FOR THE TAX YEAR 2020 (FY21)

BE IT ORDAINED by the Board of Mayor and Alderman of the City of Millington, Tennessee, hereinafter referred to as the 2020 Tax Rate Ordinance to provide as follows:

**SECTION 1: TAX RATE** – There is hereby levied upon all real property in the City of Millington pursuant to TCA 67-5-101 et sec., a tax calculated upon a rate of \$1.53 for each \$100.00 of assessed valuation and there is hereby levied upon all taxable personal property a tax calculated upon a rate of \$1.53 for each \$100.00 of assessed valuation.

**SECTION 2: COLLECTION** – The taxes herein provided for are to be collected for the year 2020, and shall be due on the first Monday in October and shall be delinquent from and after the first day of March of the subsequent year, and shall be paid and collected through the Office of the Shelby County Trustee.

**SECTION 3: APPORTIONMENT OF TAX RATE** – The taxes levied in Section 1 of this Ordinance when collected shall be apportioned as follows:

For the General Purposes of the City of Millington, \$.9997 on each \$100.00 of assessed valuation.

For the Debt Service of the City of Millington, including interest and principal payments, \$ .5303 on each \$100.00 of assessed valuation.

**SECTION 3: SEVERABILITY** – To the extent that any prior Ordinance, assessment or tax rate specification conflicts with this Ordinance the same is repealed.

**SECTION 4: EFFECTIVE DATE** – Be it further ordained that this Ordinance shall take effect upon its second and final passage.

Public Hearing:

First Reading: June 8, 2020

Second Reading:

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Terry G. Jones, Mayor

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Karen Findley, City Clerk

**ORDINANCE 2020-11**

**AN ORDINANCE TO REPEAL AND REPLACE CHAPTER 20 OF TITLE 14  
OF CITY CODE ON STORMWATER MANAGEMENT AND POLLUTION  
CONTROL**

WHEREAS, The City continues to review all sections of the City Code in order to improve and simplify its use by citizens and city employees; and

WHEREAS, Title 14 of the City Code includes Chapter 20, Stormwater Management and Pollution Control; and

WHEREAS, The City has had our engineering consultants, Kimley Horn, review and recommend changes to this Chapter in order to better meet the requirements of federal and state laws and regulations; and

WHEREAS, It was determined that a complete rewrite of the chapter would result in a more user friendly and understandable code

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF MILLINGTON, TENNESSEE that Chapter 20 of Title 14 of the Millington Municipal Code is deleted in its entirety and replaced as follows:

**CHAPTER 20**

**STORMWATER MANAGEMENT AND POLLUTION CONTROL**

**SECTION**

- 14-2001. Objectives.
- 14-2002. Conflict.
- 14-2003. Severability.
- 14-2004. Jurisdiction.
- 14-2005. Enactment.
- 14-2006. Definitions.
- 14-2007. Abbreviations.
- 14-2008. Illicit discharges; unauthorized discharge a public nuisance.
- 14-2009. Improper disposal and illicit discharges.
- 14-2010. Exceptions, allowable discharges.
- 14-2011. Illicit connection.
- 14-2012. Monitoring and inspection.
- 14-2013 – 14-2021. Reserved.
- 14-2022. Construction activity and erosion and sediment control; construction activity.
- 14-2023. Construction activity, regulated.
- 14-2024. Compliance with permits.
- 14-2025. Reserved.
- 14-2026. Stormwater management infrastructure; infrastructure, defined.
- 14-2027. Policy statements for development.
- 14-2028. Infrastructure maintenance.
- 14-2029. Maintenance responsibility– privately owned infrastructure.
- 14-2030. Maintenance responsibility– publicly owned infrastructure.
- 14-2031 – 14-2035. Reserved.
- 14-2036. Stormwater discharges from regulated industrial sources; purpose.
- 14-2037. Industry, defined.

- 14-2038. Right of inspection, defined.
- 14-2039. Availability of information on discharges to public; use of information accepted as confidential.
- 14-2040. Information required.
- 14-2041. Stormwater Pollution Prevention Plan (SWPPP) requirements.
- 14-2042. Sampling at industrial facilities.
- 14-2043. Reporting.
- 14-2044. Accidental discharges.
- 14-2045. Fraud and false statements.
- 14-2046. Reserved.
- 14-2047. Enforcement and abatement; administrative remedies.
- 14-2048. Civil penalty.
- 14-2049. Unlawful acts, misdemeanor.
- 14-2050. Processing a violation.
- 14-2051. Appeal judicial proceedings and relief.
- 14-2052. Damages, disposition of funds.
- 14-2053. Records retention.
- 14-2054. Facilities maintenance agreement.
- 14-2055. Standard Operating Procedures for City Forces.

**14-2001. Objectives.** The objectives of "the ordinance adopting new title 14, chapter 20 of the Millington Municipal Code Stormwater Management and Pollution Control" are:

- (1) To protect public health, safety and general welfare.
- (2) To eliminate any non-allowable discharges to the city's MS4 that adversely impact water quality.
- (3) To provide for the sound use and development of all flood-prone areas in such a manner as to maximize beneficial use without increasing flood hazard potential or diminishing the quality of the natural stormwater resources.
- (4) To provide for sound fiscal management of the community and maintain a stable tax base by providing appropriate fees and other dedicated funding sources for the administration of the watershed management program.
- (5) To increase the awareness of the public, property owners and potential homebuyers regarding Stormwater impacts (i.e. flooding, erosion).
- (6) To minimize prolonged business interruptions.
- (7) To minimize damage to public facilities and utilities such as water and gas mains; electric, telephone, storm and sanitary sewer lines; and streets and bridges.
- (8) To promote a functional public and private stormwater management system that will not result in excessive maintenance costs.
- (9) To encourage the use of natural and aesthetically pleasing design that maximizes preservation of natural areas.
- (10) To promote the use of comprehensive watershed management plans.
- (11) To encourage preservation of floodplains, floodways and open spaces.
- (12) To encourage community stewardship of the City of Millington's water resources.
- (13) It is further the purpose of this chapter to enable the City of Millington to comply with the NPDES permit and applicable regulations (at 40 CFR 122.32-35) for stormwater discharges.

**14-2002. Conflict.** All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this chapter are hereby repealed to the extent of such inconsistency or conflict. If any provisions of this chapter and any other provisions of law impose overlapping or contradictory regulations, or contain

any restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards or requirements shall govern.

**14-2003. Severability.** If any provision of this chapter or its application to any person, entity, or property is held invalid, the remainder of the chapter or the application of the provision to other persons or property shall not be affected. Should any article, section, subsection, clause or provision of chapter be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part declared to be unconstitutional or invalid, each article, section clause and provision being declared severable.

**14-2004. Jurisdiction.** The provisions of this chapter apply to the incorporated areas of the City of Millington.

**14-2005. Enactment.** This chapter shall take effect upon adoption, the public welfare requiring the it.

**14-2006. Definitions.** For the purpose of this chapter, unless specifically defined below, words or phrases shall be interpreted so as to give them the meaning they have in common usage and to give this article it's most effective application. Words in the singular shall include the plural, and words in the plural shall include the singular. Words used in the present tense shall include the future tense. The word "shall" connotes mandatory and not discretionary; the word "may" is permissive.

(1) "Accidental discharges" - means a discharge prohibited by this chapter into the City of Millington's MS4 that occurs by chance and without planning or consideration prior to occurrence.

(2) "Best management practices" or "BMPs" - means schedules of activities, prohibitions of practices, maintenance procedures, structural and non-structural practices, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control runoff pollutants, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

(3) "Clean Water Act" or "the Act" - means the Federal Water Pollution Control Act, as amended, codified at 33 U.S.C. 1251 et. seq.

(4) "Commercial" - means property devoted in whole or part to commerce, that is, the exchange and buying and selling of commodities or services. The term shall include, by way of example, but not be limited to the following businesses: amusement establishments, animal clinics or hospitals, automobile service stations, automobile dealerships for new or used vehicles, automobile car washes, automobile and vehicular repair shops, banking establishments, beauty and barber shops, bowling alleys, bus terminals, and repair shops, camera shops, dental offices or clinics, day care centers, department stores, drug stores, funeral homes, furniture stores, gift shops, grocery stores, hardware stores, hotels, jewelry stores, laboratories, laundries, and dry cleaning establishments, liquor stores, medical offices and clinics, motels, movie theaters, office buildings, paint stores or shops, parking lots, produce markets, professional offices, radio stations, repair establishments, retail stores, television stations and production facilities, theaters, truck or construction equipment service stations, truck or construction equipment dealerships for new or used vehicles, truck or construction equipment washing facilities and truck or construction equipment repair shops.

(5) "Construction activity" shall mean any clearing, grading, excavating, or equipment usage that will result in the disturbance of the land surface and is subject to stormwater permit requirements under the State of Tennessee General Permit for Stormwater Discharges Associated with Construction Activity. The term shall not include:

(a) Such minor construction activities as home gardens and individual home landscaping, home repair, home maintenance work and other related activities that result in minor soil erosion;

(b) Individual service and sewer connections for single- or two-family residences;

(c) Agricultural practices involving the establishment, cultivation or harvesting of products of the field or orchard, preparing and planting of pasture land, forestry land management practices including harvesting, farm ponds, dairy operations, and livestock and poultry management practices and the construction of farm buildings;

(d) Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture;

(e) Installation, maintenance, and repair of any underground public utility lines when such activity occurs in an existing hard surface road, street or sidewalk, provided the activity is confined to the area of the road, street or sidewalk which is hard surfaced and a street, curb, gutter or sidewalk permit has been obtained, and if such area is less than one acre of disturbance

(6) "Critical design storm" - means the design storm specified in the City of Millington's Drainage Design Manual.

(7) "Development" – means any activity subject to the Tennessee General Permit for Construction Activities.

(8) "Director" – means the City of Millington Director of Public Works

(9) "Erosion prevention and sediment control (EPSC) plan" - means a written plan, including drawings or other graphic representations, that is designed to minimize the erosion and sediment runoff at a site during construction activities.

(10) "Hot Spot" means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. Examples might include operations producing concrete or asphalt, auto repair shops, auto supply shops, large commercial parking areas and restaurants.

(11) "Illicit Discharge" is defined at 40 CFR § 122.26(b)(2) and refers to any discharge to a municipal separate storm sewer that is not entirely composed of stormwater, except discharges authorized under an NPDES permit (other than the NPDES permit for discharges from the MS4) and discharges resulting from firefighting activities.

(12) "Impervious" - means not allowing the passage of water through the surface of the ground or ground covering or a substantial reduction in the capacity for water to pass through the surface of the ground or ground covering.

(13) "Industrial facility" - is a business engaged in industrial production or service, that is, a business characterized by manufacturing or productive enterprise or a related service business. This term shall include but not be limited to the following: apparel and fabric finishers, automobile salvage and junk yards, blast furnace, blueprint and related shops, boiler works, cold storage plants, contractor's plants and storage facilities, foundries, furniture and household goods manufacturing, forge plants, greenhouses, manufacturing plants, metal fabrication shops, ore reduction facilities, planing mills, rock crushers, rolling mills, saw mills, smelting operations, stockyards, stone mills or quarries, textile production, utility transmission or storage facilities, truck or construction equipment salvage or junkyards, warehousing, and wholesaling facilities.

(14) "Institutional" - means an established organization, especially of a public or charitable nature. This term shall include, by way of example, but not be limited to, the following: churches, community buildings, colleges, day care facilities, dormitories, drug or alcohol rehabilitation facilities, fire halls, fraternal organizations, golf courses and driving ranges, government buildings, hospitals,

libraries, kindergartens, or preschools, nursing homes, mortuaries, schools, social agencies, synagogues, parks and playgrounds.

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

(16) "Manager" - means the stormwater management administrator who is designated to supervise the operation of the stormwater management program and who is charged with certain duties and responsibilities by this chapter, or his/her duly authorized representative.

(17) "Multi-family residential" - means an apartment building or other residential structure built for three or more units or lots under common ownership, and condominiums of three or more units.

(18) "National Pollutant Discharge Elimination System" or "NPDES permit" - means a permit issued pursuant to 33 U.S.C. Chapter 26 Water Pollution Prevention and Control, Subchapter IV Permits and Licenses, Section 1342.

(19) "Notice of intent" or "N.O.I." - means a written notice by the discharger to the Commissioner of the Tennessee Department of Environment and Conservation, or his designee, that a person wishes his discharge to be authorized under a general permit authorized by state law or regulation.

(20) "Person" - means any individual, partnership, corporation, limited liability company, firm, company, trust estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by context.

(21) "Regional facility" – means a stormwater management facility designed to serve more than two properties and 100 or more acres of drainage area. A regional facility typically includes a stormwater pond.

(22) "Redevelopment" – means the alteration of developed land that disturbs one acre or more, or less than an acre if part of a larger common plan of development, and increases the site or building impervious footprint, or offers a new opportunity for stormwater controls that the permittee would like to identify. The term is not intended to include such activities as exterior remodeling, which would not be expected to cause adverse stormwater quality impacts.

(23) "Significant spills" - Releases of oil or hazardous substances in excess of reportable quantities under section 311 of the Clean Water Act (at 40 CFR 110.10 and CFR 117.21) or section 102 of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), (at CFR 302.4).

(24) "Stormwater" – is defined at 40 CFR § 122.26(b)(13) and means stormwater runoff, snowmelt runoff, and surface runoff and drainage.

(25) "Stormwater management facility" – means a stormwater management control device, structure, or system of such physical components designed to treat, detain, store, convey, absorb, conserve, protect, or otherwise control stormwater.

(26) "Stormwater management" - means the collection, conveyance, storage, treatment and disposal of stormwater in a manner to meet the objectives of this chapter and its terms, including, but not be limited to measures that control the increase volume and rate of stormwater runoff and water quality impacts caused or induced by man made changes to the land.

(27) "Stormwater Management Manual (SWMM)" – means the guidance document adopted for use by the City of Millington to supplement the current "City of Millington Drainage Design Manual". The SWMM provides the technical standards and information necessary for proper design and construction of stormwater management facilities and the management of stormwater management infrastructure as defined in Code § 14-2025.

(28) "Stormwater Management Plan" or "SWMP" - is a written compilation of the elements of the Stormwater Management Program. It is considered a single

document, even though it actually consists of separate stand-alone components. It includes the set of drawings and other documents that comprise all of the information and specifications for the programs, drainage systems, structures, BMPs, concepts, and techniques for the City of Millington and as part of this chapter.

(29) "Stormwater Pollution Prevention Plan" - is a written plan that includes site map(s), an identification of construction/contractor activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants. It must be prepared and approved before construction begins. In order to effectively reduce erosion and sedimentation impacts, Best Management Practices (BMPs) must be designed, installed, and maintained during land disturbing activities. The SWPPP shall be prepared in accordance with the TDEC EPSC Handbook or local BMP Manual, whichever is more stringent and protective of waters of the state. The handbook is designed to provide information to planners, developers, engineers, and contractors on the proper selection, installation, and maintenance of BMPs. The handbook is intended for use during the design and construction of projects that require erosion and sediment controls to protect waters of the state. It also aids in the development of SWPPPs and other reports, plans, or specifications required when participating in Tennessee's water quality regulations.

(30) "Stormwater sewer system" –means the network of conveyances and storage facilities that collect, detain, absorb, treat, channel, discharge, or otherwise control the quantity and quality of stormwater.

(31) "Stream" – means a surface water that is not a wet weather conveyance (TCA 69-3-10. (40)) Streams include linear watercourses, lakes, ponds, and wetlands.

(32) "Toxic pollutant" - means any pollutant or combination of pollutants listed as toxic in 40 CFR Part 401 promulgated by the Administrator of the Environmental Protection Agency under the provisions of 33 U.S.C. 1317.

(33) "Variance" - means the modification of the minimum stormwater management requirements contained in this Chapter and the Stormwater Management Plan for Specific circumstances where strict adherence of the requirement would result in unnecessary hardship and not fulfill the intent of this Chapter.

(34) "Waters of the State" or "Waters" - is 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.

(35) "Water quality" - means characteristics that are related to the physical, chemical, biological, and/or radiological integrity of stormwater.

(36) "Watershed management program" – means a balanced program and plan of controlling the quantity and quality of water resources through comprehensive land and water resource management. Such management includes but is not limited to pollution control, land development controls, best management practices both structural and non-structural, preservation, habitat protection, and well head protection. This program incorporates the State's NPDES stormwater quality permit program

(37) "Watershed master plan" – means the guidance vehicle for implementing the watershed management program.

(38) "Waterway buffer" or "Buffer Zone" or "Water Quality Riparian Buffer" is a strip of dense undisturbed perennial native vegetation, either original or re-established, that borders streams and rivers, ponds and lakes, wetlands and seeps. Buffer zones are established for the purposes of slowing water runoff, enhancing water infiltration and minimizing the risk of any potential sediments, nutrients or other pollutants from leaving the upland area and reaching surface waters. Buffer zones are established for the primary purpose of protecting water quality and maintaining a healthy aquatic ecosystem in receiving waters.

(39) "Wet weather conveyance" – means, notwithstanding any other law or rule to the contrary, man-made or natural watercourses, including natural watercourses that have been modified by channelization:

- a) That flow only in direct response to precipitation runoff in their immediate locality;
- b) Whose channels are at all times above the groundwater table;
- c) That are not suitable for drinking water supplies; and
- d) In which hydrological and biological analyses indicate that, under normal weather conditions, due to naturally occurring ephemeral or low flow there is not sufficient water to support fish, or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two (2) months.

**14-2007. Abbreviations.** (1) "CERCLA" – means the Comprehensive Environmental Response, Compensation and Liability Act in its original form or as amended.

- (2) "CFR" - Code of Federal Regulations.
- (3) "FEMA" - Federal Emergency Management Agency.
- (4) "MS4" – Municipal Separate Storm Sewer System means the City of Millington separate stormwater system both natural and manmade as may be subject to the NPDES Stormwater Permit for The City of Millington.
- (5) "SWPPP" - Stormwater Pollution Prevention Plan.
- (6) "TCA" - Tennessee Code Annotated (latest version).
- (7) "TNCGP" – Tennessee Construction General Permit.
- (8) "TMSP" – Tennessee Multi-Sector Permit (TMSP) for Stormwater Discharges Associated with Industrial Activity (See Section 135).
- (9) "USACOE" – means United States Army Corps of Engineers.
- (10) "U.S.C." - means United States Code.

**14-2008. Illicit discharges; unauthorized discharge a public nuisance.** Discharge of stormwater in any manner in violation of this chapter; or any violation of any condition of a permit issued pursuant to this chapter; or any violation of any condition of a stormwater discharge permit issued by the State of Tennessee Department of Environment and Conservation is hereby declared a public nuisance and shall be corrected or abated.

**14-2009. Improper disposal and illicit discharges.** (1) It shall be unlawful for any person to improperly dispose or discharge any contaminant into the City of Millington MS4. Contaminants include, but are not limited to the following:

- a) Trash or debris;
- b) Construction materials;
- c) Petroleum products including but not limited to oil, gasoline, grease, fuel oil, or hydraulic fluids;
- d) Antifreeze and other automotive products;
- e) Metals in either particulate or dissolved form;
- f) Flammable or explosive materials;
- g) Radioactive material;
- h) Batteries, including but not limited to, lead acid automobile batteries, alkaline batteries, lithium batteries, or mercury batteries;
- i) Acids, alkalis, or bases;
- j) Paints, stains, resins, lacquers, or varnishes;
- k) Degreasers and/or solvents;
- l) Drain cleaners;
- m) Pesticides, herbicides, or fertilizers;
- n) Steam cleaning wastes;
- o) Soaps, detergents, or ammonia;

- p) Swimming pool backwash including chlorinated swimming pool discharge;
- q) Chlorine, bromine, and other disinfectants;
- r) Heated water;
- s) Animal waste from commercial animal or feeder lot operations;
- t) Any industrial and sanitary wastewater, including leaking sewers or connections;
- u) Recreational vehicle waste;
- v) Animal carcasses;
- w) Food wastes;
- x) Medical wastes;
- y) Collected lawn clippings, leaves, branches, bark, and other fibrous materials;
- (aa) Collected silt, sediment, or gravel;
- (ab) Dyes, except as stated in subsection (2)
- (ac) Chemicals, not normally found in uncontaminated water;
- (ad) Any hazardous material or waste, not listed above;
- (ae) Washing of fresh concrete for cleaning and/or finishing purposes or to expose aggregates.
- (af) Junk motor vehicles, as defined in subsection (3)
- (ag) Liquid from solid waste disposal containers.

Penalties for minor discharges that have no significant adverse impact on safety, health, the welfare of the environment, or the functionality of the city's stormwater collection system may be waived at the discretion of the manager.

(2) Dye testing. Dye testing is allowed but requires verbal notification to the manager a minimum of twenty-four (24) hours prior to the date of the test. The City of Millington and Shelby County governmental agencies are exempt from this requirement.

(3) Junk motor vehicles, definition thereof. "Junk motor vehicle" means any vehicle which shall include by way of example but not be limited to the following vehicle types:

Automobiles, construction equipment, motorcycles, and trucks, which meets all of the following requirements:

- a) Is three or more years old;
- b) Is extensively damaged, such damage including, but not limited to any of the following: broken window or windshield or missing wheels, engine or transmission;
- c) Is apparently inoperable;
- d) Is without a valid current registration;
- e) Has a fair market value equivalent only to the value of the scrap in it.

**14-2010. Exceptions, allowable discharges**. The following types of discharges shall not be considered prohibited discharges for the purpose of this chapter unless the Stormwater Manager determined that the type or quantity of discharge, whether singly or in combination with others, is causing significant contamination of the City of Millington's MS4.

- (1) Water line flushing;
- (2) Landscape irrigation;
- (3) Diverted stream flows ("Stream" as defined by TCA 69-3-103(40), a surface water that is not a wet weather conveyance);
- (4) Rising ground water;

- (5) Uncontaminated ground water infiltration (Infiltration is defined as water other than wastewater that enters a sewer system, including sewer service connections and foundation drains, from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.);
- (6) Uncontaminated pumped ground water;
- (7) Discharges from potable water sources;
- (8) Air conditioning condensate;
- (9) Irrigation water;
- (10) Springs;
- (11) Water from crawl space pumps;
- (12) Footing drains;
- (13) Lawn watering;
- (14) Individual residential car washing;
- (15) Flows from riparian habitats and wetlands;
- (16) Dechlorinated swimming pool discharges;
- (17) Street wash water;
- (18) Discharges or flows from firefighting activities;
- (19) Dye testing permitted by the State of Tennessee or the City of Millington;
- (20) Other types of discharges as determined by the Stormwater Manager.

**14-2011. Illicit connection.** Any connection, existing or future, identified by the manager, as that which could convey anything not composed entirely of stormwater directly to the City of Millington MS4 is considered an illicit connection and is prohibited with the following exceptions:

- (1) Connections conveying allowable discharges as defined in Code § 14-2009.
- (2) Connections conveying discharges pursuant to an NPDES permit (other than an NPDES stormwater permit).

Existing illicit connections must be stopped, at owner's expense.

**14-2012. Monitoring and inspection.** (1) Monitoring. The manager shall periodically monitor compliance of the stormwater NPDES permit holder.

(2) Detection of illicit connections and improper disposal. The manager shall take appropriate steps to detect and eliminate illicit connections to the City of Millington's MS4, including the adoption of programs to identify illicit discharges and their source or sources and provide for public education, public information and other appropriate activities to facilitate the proper management and disposal of used oil, toxic materials and household hazardous waste.

(3) Inspections.

- a) The manager or his designee, bearing proper credentials and identification, may enter and inspect properties for inspections, investigations, monitoring, observation, measurement, enforcement, sampling and testing, to effectuate the provisions of this chapter, the stormwater management plan, and/or the NPDES stormwater permit. The manager or his designee shall duly notify the owner of said property or the representative on site and the inspection shall be conducted at reasonable times.
- b) Upon refusal by any property owner to permit an inspector to enter or continue an inspection, the inspector shall terminate the inspection or confine the inspection to areas wherein no objection is raised. The inspector shall immediately report the refusal and the circumstances to the manager. The manager may seek appropriate action.
- c) In the event the manager or his designee reasonably believes that discharges into the City of Millington's MS4 may cause an imminent and substantial threat to human health or the environment, the

inspection may take place at any time and without notice to the owner of the property or a representative on site. The inspector shall present proper credentials upon request by the owner or representative.

At any time during the conduct of an inspection or at such other times as the manager or his designee may request information from an owner or representative, the owner or representative may identify areas of the facility or establishment, material or processes which contains or may contain a trade secret. If the manager or his designee has no clear and convincing reason to question such identification, the inspection report shall note that trade secret information has been omitted. To the extent practicable, the manager shall protect all information that is designated as a trade secret by the owner or their representative.

**14-2013 – 14-2021. Reserved.**

**14-2022. Construction activity and Erosion Prevention and Sediment Control; construction activity.** All construction activity, defined below, shall be in compliance with all applicable requirements under this article.

If one (1) or more acres of land are disturbed or planned to be disturbed as part of a larger plan by construction activity, an application shall be applied for under the "State of Tennessee's General Permit for Stormwater Discharges Associated with Construction Activity". The State of Tennessee utilizes a "notice of intent" for dischargers to obtain coverage under the general permit program for discharges associated with construction activities. These documents are subject to change and amendment and therefore the user should obtain the latest versions directly from the State of Tennessee Department of Environment and Conservation, Division of Water Pollution Control. These may be obtained at the state's web page: [www.tn.gov/environment](http://www.tn.gov/environment).

If a Tennessee General NPDES permit is applied for, a copy of the notice of intent (N.O.I.) shall be sent by certified mail, hand delivered or as directed by the manager to the manager of the stormwater management section at least 30 days prior to the commencement of construction activities (i.e. the initial disturbance of soils associated with clearing, grading, excavating, or other construction activities). A copy of the NO shall also be available for inspection by the manager or manager's representative on the construction site at all times during which construction activities are in progress. To seek coverage under the Tennessee Department of Environment and Conservation General Permit, the N.O.I. shall be submitted to the following address:

Tennessee Department of Environment and Conservation  
Division of Water Pollution Control  
Memphis Environmental Field Office  
ATTN: Stormwater NOI Processing  
8383 Wolf Lake Drive,  
Bartlett, TN 38133-4119

The copy of the N.O.I. should be sent to the following address:

Stormwater Manager  
7930 Nelson Road  
Millington, TN 38053

**14-2023. Construction activity, regulated.**

(1) An Erosion Prevention and Sediment Control Plan shall be developed for all land disturbance activities, regardless of size.

(2) It shall be unlawful for any person to permit any discharge of (1) It shall be unlawful for any person to permit any discharge of stormwater from a construction activity or land disturbance activity from land owned or controlled by them on a total

land area of one (1) or more acres disturbed by construction activity or less than one (1) acre if part of a larger common plan of development of at least one acre, without a General Permit for Stormwater Discharges Associated with Construction Activity from the Tennessee Department of Environment and Conservation, with a copy of the notice of intent (N.O.I.) provided to the stormwater management section at the same address listed in Code § 14-2022.

(3) Exempted construction activity: The following activities may be undertaken without formal notice; however, the persons conducting these excluded activities shall remain responsible for otherwise conducting those activities in accordance with the provisions of this chapter and other applicable law including responsibility for controlling sedimentation and runoff.

a) Such minor construction activities as home gardens and individual home landscaping, home repairs, home maintenance work and other related activities that result in minor soil erosion;

b) Individual service and sewer connections for single- or two-family residences;

c) Agricultural practices involving the establishment, cultivation or harvesting of products of the field or orchard, preparing and planting of pastureland, forestry land management practices including harvesting, farm ponds, dairy operations, and livestock and poultry management practices;

d) Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture;

e) Installation, maintenance, and repair of any underground public utility lines when such activity occurs in an existing hard surface road, street or sidewalk, provided the activity is confined to the area of the road, street or sidewalk which is hard surfaced and a street, curb, gutter or sidewalk permit has been obtained;

(4) SWPPP/BMP Requirements: The BMPs for controlling erosion and sedimentation from construction activities and land disturbing activities shall meet the design storm and special conditions requirements of the latest Tennessee Construction General Permit (TN CAP). The minimum standards for these practices shall be consistent with the latest version of the Tennessee Erosion and Sediment Control Handbook as developed and amended from time to time by the Tennessee Department of Environment and Conservation.

The specific application of BMP practices is subject to approval of the manager. A copy of the stormwater pollution prevention plan (SWPPP) required by applicable construction permits shall be provided to the manager as a part of the approval process. Approval of the construction project will be subject to a favorable review by the city engineer, the manager and the Tennessee Department of Environment and Conservation.

(5) Construction Site Requirements: Litter, construction debris and construction chemicals exposed to stormwater shall be picked up prior to storm events or before being carried off of the site by wind so that they do not become a pollutant source for stormwater discharges. Erosion prevention and sediment control materials (e.g., silt fence) should be removed or otherwise prevented from becoming a pollutant source for stormwater discharges.

**14-2024. Compliance with permits.** Construction shall only be allowed when permitted by applicable construction permits and when construction plans have been approved by the manager, when deemed appropriate by the building official and/or the manager. The manager or designee may stop construction on properties,

or administer other enforcement actions as defined in this chapter that do not have adequate erosion prevention and sedimentation control measures.

**14-2025. Reserved.**

**14-2026. Stormwater management infrastructure; infrastructure, defined.** Stormwater management infrastructure consists of the entire physical system of stormwater management both publicly and privately owned. This system consists of both man made and natural components as well as rivers, streams, creeks, lakes, reservoirs, ponds, springs, wetlands, wells and including features defined by the State of Tennessee as "waters of the state".

**14-2027. Policy statements for development.** Minimum standards and procedures for the design, construction, operation, and maintenance of the stormwater management infrastructure shall be set forth in the City of Millington Stormwater Management Manual as may be adopted and amended from time to time. Such adoption or amendment shall be by resolution of the board of mayor and aldermen. A copy of the stormwater management manual will be maintained on file in the offices of the manager. Until such time as this document is prepared and adopted, the City of Millington's "Drainage Design Manual" as it exists at the final adoption of this chapter, located in the manager's office shall be used. The following general policy statements shall apply:

a) All development within the corporate limits of Millington, Tennessee, shall be subject to the provisions of this ordinance.

b) Proposed plans for construction shall be stamped by a professional engineer licensed in the State of Tennessee. This shall include all proposed improvements or modifications to the existing or new stormwater infrastructure, erosion prevention and sediment control practices, and other related improvements or modifications.

c) A record plan, certified by a licensed professional engineer as appropriate, must be submitted in a format acceptable to the manager upon completion of the public or private stormwater management facility. The licensed professional shall certify that: the facilities have been constructed in substantial and essential conformance to the design plan.

d) Each individual project shall be evaluated for consistency with the adopted watershed master plan, when available, for the major watershed or watersheds within which the project site is located. The individual project evaluation will determine if stormwater quantity and quality management practices can adequately serve the property and limit impacts to downstream public and private properties. The presence of a regional facility(s) will be considered in determining the extent to which quantity and/or quality controls will be necessary.

e) In the absence of such a stormwater quantity and/or quality master plan, a system of uniform requirements shall be applied to each individual project site. In general, these uniform requirements may be based on the criterion that post-development stormwater peak runoff, and water quality must not differ significantly from pre-development conditions.

f) Development will be permitted in the floodplain; however, the developer may be required by the manager to demonstrate "no adverse impact" on upstream or downstream facilities, uses, residences, or related structures. (For example, this may be shown by modification of the USACOE/FEMA model by applying full upstream development criteria and new cross-sections reflecting the development and depiction of the elevations of all structures, facilities, etc., within the impacted upstream or downstream floodplain.)

g) Under no circumstances shall a site be graded or drained in such a way as to increase surface runoff to sinkholes, "dry wells" or "drainage wells".

h) The City of Millington encourages regional watershed management practices and facilities. These practices will be encouraged in order to replace or reduce the implementation of on-site stormwater management facilities.

i) Development of properties containing existing on-site stormwater management facilities may be permitted, at the discretion of the city engineer or stormwater manager, provided the property and downstream public and private properties, infrastructure or “Waters of the State” are adequately protected from adverse stormwater impacts.

j) Erosion or sedimentation, or transport of other pollutants or forms of pollution, due to various land development activities must be controlled.

k) Soil bioengineering, “green” and other “soft” slope and stream bank stabilization methods are encouraged over rip-rap, concrete and other hard armoring techniques. The use of greenway rights-of-way for appropriate properties is encouraged.

l) Buffer Zone Requirements

(a) Construction Sites – State Minimum Requirements:

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

(b) Buffer zone additional requirements for discharges into impaired or Exceptional TN Waters – State Minimum Requirements:

A 60-foot natural riparian buffer zone adjacent to the receiving stream designated as impaired or Exceptional TN Waters shall be preserved, to the maximum extent practicable, during construction activities at any site. The 60-foot criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than 30 feet at any measured location.

m) A permanent waterway buffer shall be applied to all major waterways serving more than 100 acres of tributary area or as specified in the stormwater management manual. The minimum buffer width shall be 200 feet extending from the top of bank of streams and/or one hundred feet from the edge of the normal pool for impoundments, ponds, lakes, and wetlands. Reductions, exemptions or modifications to this requirement may be approved subject to proper technical justification and approval by the city engineer. No new construction of any building or structure shall be permitted in the buffer except as may be permitted by the city engineer and supported with adequate technical and environmental analysis and appropriate mitigation measures. For example, mitigation strategies may include:

(a) Publicly dedicated greenways;

- (b) Restoration of impacted waterways with bioengineering or "green" approaches;
- (c) New and innovative technologies are applied to address water quantity or quality;
- (d) Modification to density, trees or other development requirements acceptable to the city engineer and planning departments.

**14-2028. Infrastructure maintenance.** It shall be the responsibility of the property owner of record for the maintenance of stormwater infrastructure. Maintenance of stormwater infrastructure shall consist at minimum but not be limited to the following items: outlet cleaning, mowing, herbicide spraying, litter control, removal of sediment from basin and outlet control structures, and repair of drainage structures. All such activities will be conducted in an environmentally sound manner and consistent with applicable codes, rules, and standards.

**14-2029. Maintenance responsibility- privately owned infrastructure.** (1) Any stormwater management facility, including buffers, that is privately owned shall receive general routine maintenance (i.e. controlling vegetative growth, removing sediment and debris) provided for by the owner(s).

(2) The owner(s) shall maintain a perpetual right of access for inspection and emergency access by the City of Millington. The city has the right, but not the duty, to enter premises for inspection and emergency repairs.

(3) Any stormwater management facility that services commercial and industrial development shall be maintained.

(4) Maintenance requirements may also be prescribed by a site-specific agreement between the owner or operator and the City of Millington. These agreements shall be based on an approved site design, a stormwater pollution prevention plan, an inspection program, a long-term maintenance plan, an emergency repair plan, easements, and proof or surety of financial responsibility.

(5) If privately owned infrastructure is not maintained, the manager may assess a fine on the private owner(s) as detailed in the enforcement and abatement portion of this chapter. Such a fine will be used for cost recovery, to abate damages, and to restore impacted areas.

**14-2030. Maintenance responsibility- publicly owned infrastructure.** (1) All regional stormwater management control facilities proposed by the owners, if approved by the City of Millington Board of Mayor and Aldermen and accepted by the manager for dedication as a public regional facility shall be publicly owned and/or maintained.

(2) All other stormwater management control facilities shall be publicly owned and/or maintained only if accepted for maintenance by the City of Millington.

**14-2031 – 14-2035. Reserved.**

**14-2036. Stormwater discharges from regulated industrial sources; purpose.** It is the purpose of this chapter to control stormwater runoff from industrial sources in order to minimize, to the maximum extent practicable, pollutants discharged from industrial sources into the City of Millington's MS4. This reduction may be achieved by a combination of management practices, control techniques, system design, engineering methods and plan review.

**14-2037. Industry, defined.** An industrial facility is one defined as industry by EPA rule, or subject to the Tennessee Multi-Sector Permit (TMSP) for Stormwater Discharges Associated with Industrial Activity.

**14-2038. Right of inspection, defined.** Whenever necessary to make any inspection to enforce any provision of the Stormwater Management Ordinance, or whenever an official of the City of Millington has reasonable cause to believe that there exists on a site any condition or code violation, the official may enter the site to inspect the same or perform any related duties imposed by this ordinance. If the site is occupied, the official will first make a reasonable effort to locate the person in charge or having control, present identification and request entry. If entry is denied to the site, the official shall have recourse to every remedy provided by the law to secure entry.

**14-2039. Availability of information on discharger to public; use of information accepted as confidential.** All information and data on a discharger obtained from reports, questionnaires, permits, monitoring programs, and from inspections shall be available to the public without restriction unless the discharger specifically requests confidential treatment and is able to demonstrate to the satisfaction of the approving authority that the release of such information would divulge information regarding processes or methods which would be detrimental to the discharger's competitive position. Information accepted by the approving authority as confidential shall not be transmitted to the general public by the approving authority unless written permission has been obtained from the discharger or under court order. Any report, questionnaire or other item required to be submitted by the discharger that contains such confidential data will be submitted in duplicate with one version containing the information and the second copy showing the information deleted that has been claimed as confidential. To the extent practicable, the Manager shall protect all information that is designated as confidential by the owner or their representative.

**14-2040. Information required.** The State of Tennessee utilizes a "notice of intent" for dischargers to obtain coverage under the general permit program for discharges associated with industrial activities. These documents are subject to change and amendment and therefore the user should obtain the latest versions directly from the State of Tennessee Department of Environment and Conservation, Division of Water Pollution Control. These may be obtained at the state's web page: [www.tn.gov/environment](http://www.tn.gov/environment). All industries subject to the TMSPP and discharging into the City of Millington storm sewer system shall maintain a copy of the stormwater pollution prevention plan (SWPPP) on the industrial site, available for inspection and copying at reasonable times by the manager.

**14-2041. Stormwater Pollution Prevention Plan (SWPPP) requirements.** The stormwater pollution prevention plan (SWPPP) must follow, at a minimum, the outline of the plan listed in the Tennessee Multi-Sector Permit language or a facility's NPDES Stormwater Permit language, whichever is applicable.

**14-2042. Sampling at industrial facilities.** (1) Samples of stormwater collected for compliance monitoring shall be representative of the discharge. Sampling locations will be those defined in the Tennessee Multi-Sector permit or an NPDES Permit. Sampling and analyses shall be in accordance with 40 CFR Part 122.21 and 40 CFR Part 136 and/or applicable permit language.

(2) Samples that may be taken by the manager and/or his designated representatives for the purpose of determining compliance with the requirements of this chapter or rules adopted hereunder may be split with the discharger if requested before the time of sampling.

(3) The manager may require a stormwater discharger to install and maintain at the Discharger's expense a suitable manhole or sampling facility at the discharger's facility or suitable monitoring access to allow observation, sampling, and measurement of all stormwater runoff being discharged into the city storm sewer system. Sampling manhole or access shall be constructed in accordance with plans

approved by the manager and shall be designed so that flow measurement and sampling equipment can be installed. Access to the manhole or monitoring access shall be available to the manager and/or his designated representatives at all times.

**14-2043. Reporting.** (1) Any facility required to sample under either the TMSP or an NPDES stormwater permit shall provide a copy of the monitoring report to the manager.

(2) The manager may require reporting by dischargers of stormwater runoff to the stormwater system, where an NPDES stormwater permit is not required, to provide information. This information may include any data necessary to characterize the stormwater discharge.

**14-2044. Accidental discharges.** In the event of a "significant spill" as defined in "definitions" or any other discharge which could constitute a threat to human health or the environment, the owner or operator of the facility shall give notice to the manager and the local field office of the Tennessee Department of Environment and Conservation as required by State and Federal law following the accidental discharge.

If an emergency response by governmental agencies is needed, the owner or operator should also call the Millington Fire Department, and when Millington Fire Department operations protocol dictates the Memphis and Shelby County Emergency Management Agency, immediately to report the discharge. A written report must be provided to the manager within five (5) days of the time the discharger becomes aware of the circumstances, unless this requirement is waived by the manager for good cause shown on a case-by-case basis, containing the following particulars:

(1) A description of the discharge, including an estimate of volume.  
(2) The exact dates, times and duration of the discharge.  
(3) Steps being taken to eliminate and prevent recurrence of the discharge, including any planned modification to contingency, SWPPP or maintenance plans.

(4) A site drawing should be rendered that shows the location of the spill on the impacted property, the direction of flow of the spill in regards to the topographical grade of the property, the impacted watercourse(s), and the property or properties adjacent to the spill site.

(5) The discharger shall take all reasonable steps to minimize any adverse impact to the City of Millington's MS4, including such accelerated or additional monitoring as necessary to determine the nature and impact of the discharge. The interruption of business operations of the discharger shall not be a defense in an enforcement action necessary to maintain water quality and minimize any adverse impact that the discharge may cause.

(6) It shall be unlawful for any entity, whether an individual, residential, commercial or industrial entity to fail to comply with the provisions of this section.

**14-2045. Fraud and false statements.** Any reports required by this chapter or rules adopted hereunder and any other documents required by the city to be submitted or maintained by the discharger shall be signed by a responsible corporate official and certified as accurate to the best of their personal knowledge after appropriate investigation. It shall be subject to the enforcement provisions of this chapter and any other applicable local and state laws and regulations pertaining to fraud and false statements. Additionally, the discharger shall be subject to the provisions of 18 U.S. Code § 309 of the Clean Water Act, as amended, governing false statements and responsible corporate officials.

**14-2046. Reserved.**

**14-2047. Enforcement and abatement; administrative remedies.** The enforcement remedies enumerated herein shall be applicable to all articles of this chapter. The City of Millington's "Stormwater Enforcement Response Plan" provides

guidance related to enforcement of both City and State ordinances with respect to stormwater in the City of Millington. The plan document addresses the following items.

(1) Notice of alleged violation. Prior to the issuance of a notice of violation (N.O.V.), the manager may order any person who causes or contributes, or may be a cause or contributor, to a violation of a stormwater permit or order issued hereunder to show cause why a proposed enforcement action not be taken. A notice of alleged violation (N.A.V.) shall be served on the person, specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the person show cause why this proposed enforcement should not be taken. The N.A.V. and notice of the meeting shall be served personally or by registered or certified mail, with return receipt, and postmarked at least ten (10) business days prior to the hearing. Such notice may be served on any person, principal executive, general partner, corporate officer, or other person with apparent authority to receive such notice.

(2) Notification of violation. Whenever the manager finds any permittee or person discharging stormwater, or other pollutants into the City of Millington's MS4 or otherwise, has violated or is violating this chapter, conditions of a stormwater permit, or order issued hereunder, the manager or his agent may serve upon said user written N.O.V. This notice shall be by personal service, or registered or certified mail with return receipt. Within ten (10) days of the receipt date of this notice, the recipient of this N.O.V. shall provide the Stormwater Manager with a written explanation of the violation. The response shall also include a plan for satisfactory correction and prevention thereof, to include specified required actions and milestones for their completion. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation. If the City of Millington deems it necessary a complaint may be filed with the Commissioner of the Tennessee Department of Environment and Conservation pursuant to Tennessee Code Annotated (T.C.A) § 69-3-118.

(3) Consent order. The Stormwater Manager is hereby empowered to enter into consent agreements, assurances of voluntary compliance, or other similar documents establishing an agreement with the person or persons responsible for the non-compliance. Such agreements will include specific action to be taken by the permittee or person discharging stormwater to correct the non-compliance within a time period specified by the agreements. Consent orders shall have the same force and effect as compliance orders issued pursuant to paragraph (5) below.

(4) Show Cause Hearing. The Stormwater Manager is hereby empowered to order a person who violates the stormwater ordinance or a permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. A notice for this hearing must be served on the person specifying the time and place for the meeting, the proposed enforcement action, the reasons for the proposed enforcement action and a request for the violator to show cause why this proposed enforcement action should not be taken. The meeting notice must be either served personally or delivered by registered or certified mail (return receipt requested) at least ten (10) days before the hearing.

(5) Compliance order. When the Stormwater Manager finds that any person has violated or continues to violate this chapter or any order issued hereunder, he may issue an order to the violator directing that, following a specified time period, adequate structures and/or devices be installed or procedures implemented and properly operated or followed. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the non-compliance, including the construction of appropriate structures, installation of devices, self-monitoring and related management practices.

(6) Cease and desist orders. When the Stormwater Manager finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder and such action or inaction has or may have the potential for immediate

and significant adverse impact on the MS4 or the stormwater discharges to it, the manager may issue an order to cease and desist all such violations immediately and direct those persons in non-compliance to:

- (a) Comply forthwith; or
- (b) Take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.
- (c) Anyone receiving a cease and desist order that includes instruction to halt operations shall receive an expedited review and appeal of such order within two (2) business days.

(7) Suspension, Revocation or Modification of Permit. The City may suspend, revoke or modify the permit authorizing the land development project or any other project of the applicant or other responsible person within the City. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the Notice of Violation or has otherwise cured the violation(s) described therein, provided such permit may be reinstated upon such conditions as the City of Millington may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation(s).

**14-2048. Civil penalty.** Any person who is found to have performed any of the following acts or omissions to act shall be subject to a civil penalty of up to \$5,000.00 per day for each offense.

- (1) Failure to obtain any required permit;
- (2) Violation of the terms and conditions of the permit;
- (3) Violation of a final determination or order of the manager; or (4) Violation of any provision of this chapter.

The civil penalty imposed by this section is intended to be solely for remedial purposes and not for punishment. It shall be imposed for each day that a violation of this chapter continues. All civil penalties paid pursuant to this chapter shall be deposited into a special fund, to be used solely to pay the costs of correction or alleviation of conditions created as a result of violation of this chapter, or to pay the costs of ensuring compliance with the requirements of this chapter.

**14-2049. Unlawful acts, misdemeanor.** It shall be unlawful for any person to knowingly:

- (1) Violate a provision of this chapter;
- (2) Violate the provisions of any permit issued pursuant to this chapter;
- (3) Fail or refuse to comply with any lawful notice to abate issued by the manager, which has not been timely appealed to the manager within the time specified by such notice; or
- (4) Violate any lawful order of the manager within the time allowed by such order.

Such person shall be guilty of a misdemeanor; and each day of such violation or failure or refusal to comply shall be deemed a separate offense and punishable accordingly. Any person found to be in violation of the provisions of this chapter shall be fined up to \$500.00 per day for each offense during which the act or omission continues or occurs. Upon learning of such act or omission, the manager or designee may issue a city ordinance citation charging the person, firm, or entity with violating one (1) or more provisions of this chapter (section) or permit issued there under, criminal violation of this chapter (section) may also be the basis for injunctive relief, with such

actions being brought and enforced through the local General Sessions Environmental Court.

**14-2050. Processing a violation.** (1) The manager may issue an assessment against any person or permittee responsible for the violation;

(2) Any person against whom an assessment or order has been issued may secure a review of such assessment or order by filing with the manager a written petition setting forth the specific legal and technical grounds and reasons for his objections and asking for a hearing in the matter involved before the manager and if a petition for review of the assessment or order is not filed within thirty (30) days after the date the assessment or order is served, the violator shall be deemed to have consented to the assessment and it shall become final;

(3) Whenever any assessment has become final because of a person's failure to appeal the manager's assessment, the manager may apply to the appropriate court for a judgment and seek execution of such judgment and the court, in such proceedings, shall treat a failure to appeal such assessment as a confession of judgment in the amount of the assessment;

(4) The manager may consider the following factors when reviewing a petition:

(a) Whether the civil penalty imposed will be an appropriate economic deterrent to the illegal activity by the violator or others in the regulated community;

(b) Damages to the City of Millington, including compensation for the damage or destruction of the City of Millington's MS4, and also including any penalties, costs (direct or indirect) and attorneys' fees incurred by the city as a result of the illegal activity, as well as the expenses involved in enforcing this chapter and the costs involved in rectifying any damages;

(c) Cause of the discharge or violation;

(d) The severity of the discharge and its effect on the City of Millington's MS4;

(e) Effectiveness of action taken by the violator to cease the violation;

(f) The technical and economic reasonableness of reducing or eliminating the discharge;

(g) The economic benefit gained by the violator.

(5) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the Commissioner of the Tennessee Department of Environment and Conservation for violations of Tennessee Code Annotated, § 68-221-1106; however, the sum of penalties imposed by this section and by Tennessee Code Annotated, § 68-221-1106 shall not exceed five thousand dollars (\$5,000) per day during which the act or omission continues or occurs.

(6) Any appeal of this final determination shall be made to a court of competent jurisdiction, and such appeal must be filed within 15 days of the decision by the manager.

**14-2051. Appeal judicial proceedings and relief.** The manager may initiate proceedings in any court of competent jurisdiction against any person who has or is about to:

(1) Violate the provisions of this chapter.

(2) Violate the provisions of any permit issued pursuant to this chapter.

(3) Fail or refuse to comply with any lawful order issued by the manager that has not been timely appealed within the time allowed by this chapter.

(4) Violates any lawful order of the manager within the time allowed by such order.

Any person who shall commit any act declared unlawful under this chapter shall be guilty of a misdemeanor, and each day of such violation or failure shall be deemed a separate offense and punishable accordingly.

**14-2052. Damages, disposition of funds.** All damages collected under the provisions of this chapter and civil penalties collected under the provisions of Code § 14-2049, following the adjustment for the expenses incurred in making such collections shall be deposited to the Storm Water Fund and there be appropriated for the stormwater management program.

**14-2053. Records retention.** All dischargers subject to this chapter shall maintain and preserve for no fewer than five (5) years, all records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling, and chemical analyses made by or in behalf of the discharger in connection with its discharge. All records which pertain to matters which are the subject of any enforcement or litigation activities brought by the city pursuant hereto shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

**14-2054. Facilities maintenance agreement.** The following "facilities maintenance agreement" is provided as a minimum guideline for agreements between City of Millington and owners/operators of stormwater infrastructure not owned by the city.

#### STORMWATER FACILITIES MAINTENANCE AGREEMENT

THIS AGREEMENT, made and entered into this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between \_\_\_\_\_ (Insert Full Name of Owner) hereinafter "Landowner", and City of Millington, Tennessee hereinafter "City".

WITNESSETH, that the Landowner is the owner of certain real property described as \_\_\_\_\_ as recorded by deed in the land records of Shelby County, Tennessee, Deed Book \_\_\_\_\_ Page \_\_\_\_\_, hereinafter called the "Property".

WHEREAS, the Landowner is proceeding to build on and develop the property; and

WHEREAS, the Site Plan/Subdivision Plan known as \_\_\_\_\_, hereinafter called the "Plan", which is expressly made a part hereof, as approved, and subsequent amendments thereto, by the City, provides for the control and management of stormwater within the confines of the property; and

WHEREAS, the City and the Landowner, its successors and assigns, including any homeowner's association, agree that the health, safety, and welfare of the residents of Millington, Tennessee, require that on-site stormwater management facilities be constructed and maintained on the Property; and

WHEREAS, the City requires that on-site stormwater management/BMP facilities as shown on the Plan be constructed and adequately maintained by the Landowner, its successors and assigns, including any homeowner's association.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

1. On-site stormwater management facilities shall be constructed by the Landowner, its successors and assigns, in accordance with the plans and specifications identified in the Plan.
2. The Landowner, its successors and assigns, including any homeowner's association, shall adequately maintain the stormwater management facilities. This includes all pipes and channels built to convey stormwater to the facility, as well as all structures, improvements, and vegetation provided to control the quantity and quality of the stormwater. Adequate maintenance is herein defined as good working condition so

that these facilities are performing their design functions. The Annual Inspection Report form (attached) is to be used to establish what good working condition is acceptable to the City of Millington.

3. The Landowner, its successors and assigns, shall inspect the stormwater management facilities and submit an inspection report annually. The purpose of the inspection is to assure safe and proper functioning of the facilities. The inspection shall cover the entire facilities, berms, outlet structure, pond areas, access roads, etc. Deficiencies shall be noted in the inspection report.
4. The Landowner, its successors and assigns, hereby grant permission to the City, its authorized agents and employees, to enter upon the Property and to inspect the stormwater management facilities whenever the City deems necessary. The purpose of inspection is to follow-up on reported deficiencies, conduct routine inspections, and/or to respond to citizen complaints. The City shall provide the Landowner, its successors and assigns, copies of the inspection findings and a directive to commence with the repairs if necessary.
5. In the event the Landowner, its successors and assigns, fails to maintain the stormwater management facilities in good working condition acceptable to the City, the City may enter upon the Property and take whatever steps necessary to correct deficiencies identified in the inspection report and to charge the costs of such repairs to the Landowner, its successors and assigns. This provision shall not be construed to allow the City to erect any structure of permanent nature on the land of the Landowner outside of the easement for the stormwater management facilities. It is expressly understood and agreed that the City is under no obligation to routinely maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on the City.
6. The Landowner, its successors and assigns, will perform the work necessary to keep these facilities in good working order as appropriate. In the event a maintenance schedule for the stormwater management facilities (including sediment removal) is outlined on the approved plans, the schedule will be followed.
7. In the event the City pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the Landowner, its successors and assigns, shall reimburse the City upon demand, within thirty (30) days of receipt thereof for all actual costs incurred by the City hereunder.
8. This Agreement imposes no liability of any kind whatsoever on the City and the Landowner agrees to hold the City harmless from any liability in the event the stormwater management facilities fail to operate properly.
9. This Agreement shall be recorded among the land records of the City of Millington, Tennessee, and shall constitute a covenant running with the land, and shall be binding on the Landowner, its administrators, executors, assigns, heirs and any other successors in interests, including any homeowner's association. A deed assignment from a property owner under this Agreement shall confer the terms of this Agreement onto the purchaser and releases the seller.

WITNESS the following signatures and seals:

\_\_\_\_\_  
Company/Corporation/Partnership Name (Seal)

By: \_\_\_\_\_

\_\_\_\_\_  
(Type Name of Signatory)

\_\_\_\_\_  
(Type Title of Signatory)

The foregoing Agreement was acknowledged before me this \_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, NOTARY  
PUBLIC.  
My Commission Expires: \_\_\_\_\_

CITY OF MILLINGTON

By: \_\_\_\_\_

\_\_\_\_\_

(Type Name) Mayor

**14-2055.** Standard Operating Procedures for City Forces. City employees, in the performance of their regular duties, shall adhere to the standard operating procedures for stormwater management as outlined in the City of Millington's Stormwater Management Manual as may be adopted and amended from time to time. Adoption or amendment of polices shall be by resolution of the Board of Mayor and Aldermen and adoption or amendment of operating procedures shall be approved by the City Manager. Until such time as this guide document is prepared, the following general policy statements shall apply:

- (1) Perform regularly scheduled maintenance on all equipment and vehicles.
- (2) Maintain maintenance records for all equipment and vehicles.
- (3) Maintain environmental training records for all employees.
- (4) Conduct daily inspections in storage yards and maintenance shops to confirm proper storage, handling, and disposal of materials.
- (5) All stored materials shall have the relevant Material Safety Data Sheet stored nearby in a readily accessible location.
- (6) Store materials away from waterways and storm drain inlets.
- (7) Perform annual inspections and maintenance as needed for stormwater inlets and conveyance systems.

BE IT FURTHER ORDAINED, That this Ordinance shall take effect upon its second and final passage.

Public Hearing:

First Reading: June 8, 2020

Final Reading:

\_\_\_\_\_  
Terry Jones, Mayor

\_\_\_\_\_  
Karen Findley, City Clerk

RESOLUTION 28-2020

RESOLUTION APPROVING SERVICES AGREEMENT BETWEEN THE CITY OF  
MILLINGTON AND THE MEMPHIS AND SHELBY COUNTY OFFICE OF  
CONSTRUCTION CODE ENFORCEMENT

WHEREAS, The City of Millington contracts with Memphis and Shelby County Construction Code Enforcement for most construction and zoning compliance and related activities; and

WHEREAS, The City approved an Agreement for this purpose on May 11, 2015 by Resolution 41-2015; and

WHEREAS, The Memphis and Shelby County Construction Code Enforcement is a part of the Memphis and Shelby County Division of Planning and Development (DPD); and

WHEREAS, DPD has contracted for creation of the Accela Program, containing a significant variety of digital information and computer software used in the daily operation of DPD departments including permit issuance and inspections; and

WHEREAS, The Town of Arlington, the City of Germantown, the City of Lakeland, the City of Memphis, Memphis Light, Gas and Water Division and Shelby County Government will all be users of this system; and

WHEREAS, All users have been asked to enter into a Cooperative Agreement covering the use of the Accela Software System including related operational and financial conditions; and

WHEREAS, Millington shall you receive licenses for two users on this system at no cost to the City; and

WHEREAS, the Cooperative Agreement is recommended for approval by the City Manager.

NOW, THEREFORE, BE IT RESOLVED by the Board of Mayor and Aldermen, that the Cooperative Agreement is approved.

BE IT FURTHER RESOLVED that the Mayor is authorized to execute the Cooperative Agreement and any related documents, subject to approval by the City Attorney.

This Resolution is adopted this 8<sup>th</sup> day of June 2020.

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Terry G. Jones, Mayor

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Karen Findley, City Clerk

RESOLUTION 29-2020

RESOLUTION APPROVING A REVISED INTERNAL CONTROL MANUAL

WHEREAS, State law requires every local government to adopt and maintain an internal control system, documented in a manual and the first manual was required to be adopted by June 30, 2016; and

WHEREAS, Internal control is a process that is developed by the city to provide reasonable assurance that the following objectives will be achieved:

- Reliability of financial reporting,
- Effectiveness and efficiency of operations, and
- Compliance with applicable laws, regulations, contracts and grant agreements; and

WHEREAS, The five (5) main components of internal controls, as established by the “Green Book” and COSO and required by the State to be addressed, are:

1. Control Environment
2. Risk Assessment
3. Control Activities
4. Information and Communication
5. Monitoring; and

WHEREAS, A key consideration of the “Control Environment” is that the oversight body (the Board of Mayor and Aldermen in Millington) and management (City Manager and department directors in Millington) should demonstrate a commitment to integrity and ethical values; and

WHEREAS, Approval of the internal control system and setting an expectation of adherence to the system by the Board of Mayor and Aldermen is known as setting the tone at the top; and

WHEREAS, The current Internal Control Manual for the City was adopted on June 16, 2016 by Resolution 39-2016 and included a requirement for the City Manager and Finance Director to review the manual on an annual basis and propose any needed additions or corrections to this Board; and

WHEREAS, Some minor adjustments have been determined to be appropriate to reflect the current organization of the city and changes in technology.

NOW, THEREFORE, BE IT RESOLVED by the Board of Mayor and Aldermen of the City of Millington, Tennessee, that the City of Millington Internal Control Manual, which is attached hereto as Exhibit A and incorporated herein by reference, is hereby approved and adopted.

BE IT FURTHER RESOLVED, That all Resolutions heretofore passed in conflict herewith are hereby repealed insofar as they are in conflict with this Resolution.

BE IT FURTHER RESOLVED, That the City Manager and all city employees are expected to be aware of the policies and procedures established in this manual and to adhere to them in all cases.

BE IT FURTHER RESOLVED, That the City Manager and Finance Director are to review this document on an annual basis and propose any needed additions or corrections to this Board.

This Resolution is adopted this 8<sup>th</sup> day of June, 2020.

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Terry G. Jones, Mayor

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Karen Findley, City Clerk

RESOLUTION 30-2020

**RESOLUTION DECLARING TWO PARCELS OF LAND ON WEST SIDE OF CHURCH STREET AT BUFORD AVENUE AS SURPLUS**

WHEREAS, The City acquired two unconnected parcels of vacant land on Church Street at Buford Avenue many years ago; and

WHEREAS, These odd shaped parcels include one with .393 acres, known as 7905 Church Street, Parcel Id# M0115HB00068, and the other with .545 acres, known as 7927 Church Street, Parcel ID# M0115HB00069.

WHEREAS, The City has received several inquiries about purchasing these parcels in order to build single family housing; and

WHEREAS, The City has no need for this property for any City function and should therefore declare it as surplus and sell it.

NOW, THEREFORE, BE IT RESOLVED by the Board of Mayor and Aldermen of the City of Millington, Tennessee that the property known as 7905 Church Street, Parcel Id# M0115HB00068, and the property known as 7927 Church Street, Parcel ID# M0115HB00069 are both surplus and may be sold.

This Resolution is adopted this 8<sup>th</sup> day of June 2020.

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Terry G. Jones, Mayor

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Karen Findley, City Clerk