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Authority to Comply and Regulatory Powers

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Authority to Comply and Regulatory Powers

Reference Number: CTAS-560

In 1993, the Tennessee General Assembly passed a series of statutes to help larger municipalities comply with Phase I of the storm water regulations. These statutes are found in Title 68, Chapter 221, Part 11, of the *Tennessee Code Annotated*. They were intended to facilitate compliance with the environmental regulations by authorizing municipalities to regulate storm water discharges, establish a system of drainage facilities, and fix and require payment of fees for the privilege of discharging storm water. The statutes also authorized municipalities to construct and operate a system of drainage facilities for storm water management and flood control. "Municipality," as defined under that law, included only incorporated cities or towns, metropolitan governments, or special districts of the state that had a population of at least 75,000.

In 2001, the General Assembly passed Public Chapter 119 to expand the definition of municipality under these Tennessee storm water management statutes to include more local governments. T.C.A. § 68-221-1102. Since Phase II of the EPA storm water regulations will affect a significant number of cities and counties that were not under Phase I, the intent of the act was to give those cities and counties the ability to exercise the authority that larger municipalities had under T.C.A. § 68-221-1101 *et seq.* The bill accomplishes this by removing the population limitations from the law and by including "county" within the definition of "municipality."

Under the storm water management statutes, counties are authorized to:

1. Exercise general regulation over the planning, location, construction, and operation and maintenance of storm water facilities in the municipality, whether owned and operated by the county or not;
2. Adopt any rules and regulations deemed necessary to accomplish the purposes of this part, including adopting a system of fees for services and permits;
3. Establish standards to regulate the quantity of storm water discharged and to regulate storm water contaminants as may be necessary to protect water quality;
4. Review and approve plans and plats for storm water management in proposed subdivisions and commercial developments;
5. Issue permits for storm water discharges, or for the construction, alteration, extension, or repair of storm water facilities;
6. Suspend or revoke permits when it is determined that the permit holder has violated any applicable ordinance, resolution, or condition of the permit;
7. Regulate and prohibit discharges into storm water facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and
8. Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources or storm water contamination, whether public or private.

T.C.A. § 68-221-1105 (as amended by Acts of 2001 Public Chapter 119).

It is important to note that as the law currently reads, county authority over storm water discharge may be exercised only outside of municipal boundaries.

In counties that are not in the state's computer assisted appraisal system, the county trustee is authorized to bill and collect storm water fees for the county as a designated item on the ad valorem tax notice issued by the trustee. Municipalities in these counties are authorized to contract with the county to have their storm water fees collected in the same manner. T.C.A. § 68-221-1107.

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