

## ORDINANCE NO. 24-616

### AN ORDINANCE AMENDING TITLE 16 CHAPTER 5 OF THE ALCOA MUNICIPAL CODE REGARDING STORMWATER MANAGEMENT

WHEREAS, The Federal Clean Water Act, 33 U.S.C. 1251 et seq., requires certain political entities, such as the City of Alcoa, to implement stormwater management programs within prescribed time frames, and the Environmental Protection Agency, pursuant to the Federal Clean Water Act, 33 U.S.C. 1251 et seq., has published rules for stormwater outfall permits;

WHEREAS, Tennessee Code Annotated, § 68-221-1101, provides that the purpose of the stormwater management statute is to facilitate municipal compliance with the Water Quality Act of 1977, and applicable EPA regulations, particularly those arising from § 405 of the Water Quality Act of 1987, and § 402(p) of the Clean Water Act of 1977, and to enable municipalities to regulate stormwater discharges, establish a system of drainage facilities, and construct and operate a system of stormwater management and flood control facilities; Tennessee Code Annotated, § 69-3-101 Tennessee Code Annotated, § 69-3-108.

WHEREAS, Tennessee Code Annotated, § 68-221-1105 specifies certain powers municipalities have with respect to stormwater facilities and establishes the authority to establish ordinances and resolutions regarding the same;

WHEREAS, the Board of Commissioners of the City of Alcoa adopted Ordinance 08-154 that established stormwater management policies, rules and regulations for the City of Alcoa;

WHEREAS, the State of Tennessee has filed a new rule effective May 15, 2022 for certain political entities, such as the City of Alcoa, to implement changes to local ordinances to maintain standards as stringent as or more than those presented in Rules of the Tennessee Department of Environment and Conservation Division of Water Resources Chapter 0400-40-05 Individual National Pollutant Discharge Elimination System (NPDES) Permits, section 0400-40-05-.15 Municipal Separate Storm Sewer Systems.

WHEREAS, the City of Alcoa has obtained and must comply with the NPDES Phase II permit for discharges of stormwater runoff and has amended the ordinance to do so;

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF ALCOA, THAT TITLE 16 ENTITLED, "STREETS, SIDEWALKS, DRAINAGE, EROSION CONTROL, AND STORMWATER MANAGEMENT" OF THE ALCOA MUNICIPAL CODE, is hereby amended as follows:

SECTION 1. Chapter 5 of Title 16 entitled "Stormwater Management" is hereby deleted in its entirety and replaced with the following:

## Chapter 5

### **STORMWATER MANAGEMENT**

#### **SECTION**

16-501.	General provisions.
16-502.	Definitions.
16-503.	Authority.
16-504.	Grading permit required.
16-505.	Stormwater management plan.
16-506.	Grading, construction, erosion, and sediment control.
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16-509.	Performance bonds.
16-510.	As-built certifications.
16-511.	Inspection and maintenance.
16-512.	Permit controls and stormwater system integrity.
16-513.	Severability.
16-514.	Responsibility.
16-515.	Enforcement and penalties.
16-516.	Repeal clause.
16-517.	[Deleted.]
16-518.	[Deleted.]

#### **16-501. General provisions.**

(1) Purpose. It is the purpose of this chapter to:

- (a) Apply to all areas located within the jurisdiction of the City of Alcoa.
- (b) Protect, maintain, and enhance the environment of the city and the public health, safety, and the general welfare of the citizens of the city, by controlling discharges of pollutants to the public stormwater system, with the intent of maintaining and/or improving the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the state in the City of Alcoa.
- (c) Enable the City of Alcoa to comply with the NPDES General Permit for Discharges from Small Municipal Separate Storm Sewer Systems, TMDLs and other applicable state and federal regulations.
- (d) Safeguard the health, safety, and general welfare of the citizens.
- (e) Preserve the value of land throughout the city.
- (f) Establish reasonable and accepted standards of design and procedures that prevent or reduce the discharge of pollutants from developed or redeveloped land.
- (g) Preserve the natural beauty and aesthetics of the community.
- (h) Minimize property damage by means of flooding.

(2) Rules applying to this chapter. For the purpose of this chapter, the following rules of construction shall apply:

- (a) Words used in the present tense shall include the future tense and the singular includes the plural, unless otherwise indicated in the text.

(b) The words "shall" or "must" is always mandatory and not discretionary. The words "may" and "should" are permissive in nature.

(c) Except as herein provided, all words used in this chapter shall have their common dictionary definition. (as added by Ord. #04-041, Nov. 2004, and replaced by Ord. #08-154, Feb. 2008, and Ord. #13-304, March 2013)

**16-502. Definitions.**

(1) "Alcoa Stormwater Board of Appeals." The body which has been delegated the authority by the Board of Commissioners of the City of Alcoa to hear appeals concerning decisions made by the city manager or his designee as to the interpretation of the meaning of this code.

(2) "Applicant." Person submitting an application for a grading permit. Typically, this is the owner or operator of the land-disturbing activity.

(3) "As-built certification." Certification forms are to be completed and stamped by the design engineer to accompany the field-verified as-built drawings. Certification forms for both water quality and water quantity may be required per the City of Alcoa.

(4) "As-built drawing." As-built, field-verified plans signed and sealed by a registered land surveyor licensed to practice in the State of Tennessee, showing contours, elevations, grades, locations, drainage and hydraulic structures, best management practices, permanent stormwater control measures, stormwater easements, detention basin volumes and other features as required per the City of Alcoa.

(5) "Best Management Practices (BMP or BMPs)." Schedules of activities, prohibitions of practices, maintenance procedures, stormwater quality and quantity management facilities, structural controls, water quality buffers and other management practices designed to prevent or reduce the pollution of waters of the United States and to provide water quality treatment, water quantity control, channel protection, overbank flood protection and extreme flood protection in accordance with this chapter.

(6) "City manager." The city manager or their designee for the City of Alcoa, Tennessee.

(7) "Channel." A natural or artificial watercourse of perceptible extent, with definite beds and banks to confine and conduct continuously or periodically flowing water.

(8) "Channel flow" is water which is flowing within the limits of the defined channel.

(9) "Comprehensive development plan." An engineering plan showing all required infrastructure such as stormwater management facilities, potable water, sanitary sewer, roadway infrastructure, best management practices, erosion prevention and sediment control, water quality buffers, easements and all other appurtenances for proposed development and redevelopment in accordance with and as required by this chapter and all rules, regulations, and specifications of the City of Alcoa.

(10) "Construction." Any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises.

(11) "Construction related waste." Waste that is generated through construction, land development and land-disturbing activities that may cause adverse impacts to water quality. Construction related waste includes, but is not limited to, discarded building materials, concrete truck washout, chemicals, litter, hazardous materials, oil and

(12) "Covenants for permanent maintenance of stormwater best management practices." A legal document executed by the property owner(s) or a homeowners' association as an owner of record and recorded with the Blount County Register of Deeds which guarantees perpetual and proper maintenance of best management practices.

- (13) "Cut." Portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to the excavated surface.
- (14) "Developer." The person, firm, or corporation, both public and private, engaged in the development of land, such as subdivisions or other land improvements.
- (15) "Development." Development is the improvement of one (1) lot or two (2) or more contiguous lots, tracts or parcels of land for any purpose involving:
- (a) One (1) or more residential or nonresidential buildings, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
  - (b) The division or allocation of land or space, between or among two (2) or more existing or prospective occupants by means of, or for the purposes of streets, common areas, leaseholds, condominiums, building groups or other features.
  - (c) A subdivision of land.
  - (d) The process of grading, clearing, filling, quarrying, construction, or reconstruction to improved or unimproved real estate or other similar activities when not excluded by exemptions from this chapter.
- (16) "Director." The Director of Development Services or their designee for the City of Alcoa, Tennessee.
- (17) "Easement." A legally dedicated right-of-way for the city to manage/maintain stormwater flow facilities or other utilities within specified boundaries.
- (18) "Enclosed stormwater system." Part of the stormwater system that is encompassed by a pipe or other underground structure excluding short segments culvert.
- (19) "Erosion." The wearing away of land by action of wind, water, ice, or gravity.
- (20) "Erosion Prevention and Sediment Control plan (EPSC plan)." A formal plan for the control of soil erosion and sediment resulting from land-disturbing activity. The plan shall be reviewed and approved by the director before a grading permit may be issued. The plan may be included as part of a comprehensive development plan required under another city ordinance, a stormwater management plan, and/or a separate plan following the specifications set out in this chapter.
- (21) "Excavation." See Cut.
- (22) "Exceptional Tennessee Waters." Surface waters of the State of Tennessee that satisfy characteristics of exceptional Tennessee waters as listed in chapter 1200-4-3-.06 of the official compilation--Rules and Regulations of the State of Tennessee. Characteristics include waters designated by the Water Quality Control Board as Outstanding National Resource Waters (**ONRW**); waters that provide habitat for ecologically significant populations of certain aquatic or semi-aquatic plants or animals; waters that provide specialized recreational opportunities; waters that possess outstanding scenic or geologic values; or waters where existing conditions are better than water quality standards.
- (23) "Existing land use." Means a land use which, prior to the effective date of the ordinance comprising this chapter is either:
- (a) Completed;
  - (b) Ongoing, as in the case of agricultural activity;
  - (c) Under construction; or
  - (d) Fully approved by the governing authority.
- (24) "Fill." Portion of land surface or area to which soil, rock or other materials have been or will be added; height above original ground surface after the material has been or will be added.
- (25) "Grading." Any operation or occurrence by which the existing site elevations are changed by cutting, filling, borrowing, stock piling, or where any ground cover, natural or man-made, is removed, or any building or other structures are removed or any water course or body of water,

either natural or man-made, is relocated on any site, thereby creating an unprotected area. "Grading" is synonymous with "land-disturbing activity."

(26) "Grading permit." A permit issued to authorize excavation and/or fill or other land disturbing activities to be performed under the guidelines of this chapter.

(27) "Hotspot." See "pollutant hotspots."

(28) "Illicit discharge." Any discharge to the stormwater system that is not composed entirely of stormwater and not specifically exempted in this chapter.

(29) "Impervious surfaces." Those areas that prevent or impede the infiltration of stormwater into the soil as it entered in natural conditions prior to development. Common impervious areas include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, gravel surfaces, awnings and other fabric or plastic coverings.

(30) "Land-disturbing activity." Any activity on private or public land that may result in soil erosion and the movement of sediments. Land disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, logging and/or tree chipping operations, haul roads associated with the development, and excavation.

(31) "Lake" or "pond." An inland body of standing water.

(32) "Native vegetation." Plants indigenous to East Tennessee or the southeastern United States.

(33) "NPDES." National Pollutant Discharge Elimination System.

(34) "Owner" or "property owner." The legal owner of the property as recorded in the Blount County Register of Deeds office at the time of application of the grading permit.

(35) "Operator." For the purpose of this chapter and in the context of stormwater associated with construction activity, operator means any person associated with a construction project that meets either of the following two (2) criteria:

(a) A person having operational control over construction plans and specifications, including the ability to authorize modifications to those plans and specifications. This person is typically the owner or developer of the project or a portion of the project; or

(b) A person having day-to-day operational control of those activities at a project which are necessary to ensure compliance with a site plan, EPSC plan, SWMP, SWPPP or sketch plan for the site or other permit conditions. This person is typically a contractor or commercial builder and is often authorized to direct workers at a site to carry out activities required by approved plans or comply with other permit conditions.

(36) "Person." Any individual, firm, corporation, partnership, association, organization, or entity, including governmental entities, or any combination thereof.

(37) "Pond." See "lake."

(38) "Priority construction activity." Any land-disturbing activity that is one (1) acre or greater in area that discharges into, or upstream of, waters of the State of Tennessee designated as waters with unavailable parameters for siltation or Exceptional Tennessee Waters. Also, priority construction activities can include land-disturbing activities of any size that, in the judgment of the director or his/her designee, require coordination with adjacent construction activities or have conditions that indicate a higher-than-normal risk for discharge of sediment or other construction related wastes.

(39) "Pollutant hotspot." An area where the land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

(40) "Project." The entire proposed development regardless of the size of the area of land to be disturbed.

- (41) "Redevelopment." The improvement of a lot or lots that have been previously developed.
- (42) "Restaurant." An establishment or facility where food is prepared and sold.
- (43) "River." See "stream."
- (44) "Runoff." The water resulting from precipitation that is not absorbed by the soil.
- (45) "Sanitary sewer." Systems of underground conduits that only collect domestic or industrial waste and deliver sanitary wastewater to a wastewater treatment plant.
- (46) "Sediment." Solid material, both inorganic (mineral) and organic, that is in suspension, is being transported, or has been moved from the site of origin by wind, water, gravity, or ice as a product of erosion.
- (47) "Sedimentation." The action or process of forming or depositing sediment.
- (48) "Sewage." Human wastes carried by water from residences, buildings, industrial establishments, or other places, together with such industrial wastes, stormwater or other water as may be present; or any substance discharged from a sanitary sewer collection system.
- (49) "Sinkhole." A naturally occurring depression where drainage collects in the earth's surface that is a minimum of two feet (2') deep. These depressions are typically denoted as closed contours and/or a hole, fissure, or other opening in the ground, often underlain with limestone, dolomite or other rock formation that provides for and is being designated as a natural conduit for the passage of stormwater.
- (50) "Sketch plan." An erosion prevention and sediment control plan required for land-disturbing activities that are greater than one-tenth (0.1) acre and less than one (1) acre.
- (51) "Slope." The degree of deviation of a surface from the horizontal, usually expressed in percentage or degrees.
- (52) "Soil stabilization." Measures which protect soil from erosion.
- (53) "Stormwater" also "stormwater runoff" or "runoff." Surface water resulting from rain, snow, or other forms of precipitation, which is not absorbed into the soil and results in surface water flow and drainage.
- (54) "Stormwater Control Measure (SCM or SCMs)." Non-structural land development design strategies and structural stormwater facilities intended to prevent or reduce the discharge of pollution in, and/or regulate the volume or peak discharge of, stormwater runoff from a developed or redeveloped property. SCMs may include structural devices, such as stormwater ponds, extended detention ponds or bioretention areas, and non-structural practices such as water quality buffers or natural open spaces.
- (55) "Stormwater Management Manual (or manual)." Documents prepared and maintained by the City of Alcoa which contain requirements, standards, specifications, engineering methods and procedures, forms, checklists, and guidelines to be used for implementation of this article. When used in this article, "manual" shall denote the latest version of the documents comprising the Stormwater Management Manual, as amended.
- (56) "Stormwater Management Plan (SWMP)." An engineering plan for the location and/or design of best management practices, water quality buffers, stormwater management facilities, and water quality credit areas within a proposed development or redevelopment. A stormwater management plan includes a map showing the extent of the land development activity and location of BMPs, design calculations BMPs, and may contain as-built drawings and covenants for permanent maintenance of stormwater best management practices.
- (57) "Stormwater Pollution Prevention Plan (SWPPP)." A written plan required by and prepared in conformance with the State of Tennessee General NPDES permit for discharges of stormwater associated with construction activities, that includes site map(s), an

identification of construction/contractor activities that could cause pollutants in stormwater, and a description of measures or practices to control these pollutants. It must be prepared and approved before construction begins.

(58) "Stormwater system." The system of roadside drainage, roadside curbs and gutters, curb inlets, swales, catch basins, manholes, gutters, ditches, pipes, lakes, ponds, sinkholes, channels, creeks, streams, storm drains, and similar conveyances and facilities, both natural and manmade, located within the city which are designated or used for collecting, storing, or conveying stormwater, or through which stormwater is collected, stored or conveyed, whether owned or operated by the City of Alcoa or other person.

(59) "Stream" or "river." A stream or river is defined as a linear surface water conveyance that can be characterized with either perennial or ephemeral base flow and either:

(a) Has published floodplain elevations that have been computed as part of an approved flood study;

(b) Is identified as a blue line on a 2.5-minute USGS quadrangle, unless otherwise designated by Tennessee Department of Environmental Conservation (TDEC); or

(c) Is determined to be a stream or river by the City of Alcoa, the United States Army Corps of Engineers (USACE) or Tennessee Department of Environmental Conservation (TDEC).

(60) "Stream centerline." The centerline of the low flow channel of a stream or river.

(61) "Stripping." Any activity which removed or significantly disturbs the vegetative surface cover including clearing and grubbing operations.

(62) "Structure." Anything constructed or erected such that the use of it requires a more or less permanent location on or in the ground. Such construction includes, but is not limited to, objects such as buildings, towers, smokestacks, overhead transmission lines, carports, and walls.

(63) "Swale." A natural or manmade depression or wide shallow ditch used to route or filter runoff.

(64) "Top of bank." The uppermost limit of an active stream channel, usually marked by a break in slope. Also known as a stream bank.

(65) "Total Maximum Daily Load (TMDL). A calculation of the maximum amount of a pollutant that a water body can receive and still meet water quality standards, and an allocation of that amount to the source(s) of the pollutant as designated and/or defined by the Tennessee Department of Environment and Conservation.

(66) "Vegetation." Collection of plant life, including trees, shrubs, bushes, and grass.

(67) "Vegetative construction buffer." The area of land adjacent to waters of the state in its undeveloped state of vegetation, which facilitates the protection of water quality and aquatic habitat during construction.

(68) "Vegetative erosion prevention and sediment control practices." Measures for the stabilization of erosive or sediment producing areas by covering the soil with:

(a) Permanent seeding, sprigging, or planting, produce long-term vegetative cover;

(b) Temporary seeding, producing short-term vegetative cover;

(c) Sodding, covering areas with turf of perennial sod-forming grass.

(69) "Variance." A grant of relief from specific requirements of this chapter that permit construction or activities in a manner otherwise prohibited by this chapter, where specified enforcement would result in unnecessary or undue hardship.

(70) "Watercourse." Any natural or artificial conveyance, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows either continuously or intermittently and which has a defined channel, bed and banks, and including

any area adjacent thereto subject to inundation by reason of overflow or flood water.

(71) "Water Quality Buffer (WQB)" is an overlaying zone that encompasses all land within the areas as described in § 16-507 containing trees and other vegetation that exist or are established to protect the physical and ecological integrity of the buffered waterbody, reduce the potential for flooding, provide tree canopy, stabilize the banks/shoreline, and filter runoff from developed areas.

(72) "Waters with unavailable parameters." Any segment of surface waters that have been identified by the Tennessee Department of Environment and Conservation as failing to support one (1) or more classified uses.

(73) "Wastes, industrial/commercial." Liquid or other wastes resulting from any process of industry, manufacture, trade or business, or from the development of any natural resources.

(74) "Wastes, other." Discarded brush; sawdust; shavings; accumulated leaves; lawn clippings; animal wastes; used or previously applied lime; garbage; trash; refuse, loose used paper, paper products, plastic containers, or metal containers; ashes, offal, discarded tar; discarded paint; discarded or uncontained solvents; used, discarded, or spilled petroleum products, antifreeze, motor vehicle fluids; used or discarded tires, gas tanks, or chemicals; or any other used, uncontained, or unpackaged, or disposed of materials which may discharge to or otherwise enter the stormwater system.

(75) "Wastewater." See sewage.

(76) "Water quality volume credit." A decrease in the water quality volume for one (1) or more areas of a proposed development which is obtained only for specific site development features or approaches that can reduce or eliminate the discharge of pollutants in stormwater runoff. Water quality volume reductions can only be obtained when they meet specific technical criteria, as defined by the manual.

(77) "Water quality volume credit areas." Areas within the proposed development or redevelopment for which a water quality volume credit can be obtained.

(78) "Waters of the state." Any and all waters, 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 or effect a junction with natural surface or underground waters.

(79) "Wetland." An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetland determination shall be made by the United States Army Corps of Engineers, the Tennessee Department of Environment and Conservation, and/or the Natural Resources Conservation Service, or a qualified professional that has been trained in the identification and delineation of wetland areas. (as added by Ord. #04-041, Nov. 2004, and replaced by Ord. #08-154, Feb. 2008, and Ord. #13-304, March 2013)

### **16-503. Authority.**

(1) The city manager and the staff under the city manager's supervision shall administer the provisions of this chapter.

(2) The city manager has the authority to promulgate rules, regulations, policies, and guidance consistent with this chapter to carry-out the meaning and intent of this chapter in a City of Alcoa Stormwater Management Manual (or manual). The policies, criteria and requirements stated in the manual shall be enforceable, consistent with other provisions of

this chapter.

(3) In the event that the city manager or his/her designee determines that a violation of any provision of this chapter has occurred, or that work does not have a required permit, or that work does not comply with an approved plan or permit, the city manager or his/her designee may issue a notice of violation to the permittee or property owner and/or any other person or entity having responsibility for activities performed at a development, at which time the enforcement provisions of this chapter shall be implemented. (as added by Ord. #04-041, Nov. 2004, and replaced by Ord. #08-154, Feb. 2008, and Ord. #13-304, March 2013)

**16-504. Grading permit required.**

(1) No individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, county, city, or other political subdivision, cooperative, or any other legal entity shall engage in any land-disturbing activity within the corporate limits of the City of Alcoa without meeting the requirements of this chapter, unless exempted from this chapter.

(a) The owner or operator of land-disturbing activities not exempted under § 16-504(2) must obtain a grading permit prior to commencing land disturbing activities;

(b) A grading permit shall be required for the following land- disturbing activities:

(i) Any residential, non-residential, development or redevelopment that will result in a land-disturbing activity greater than one-tenth (.1) of an acre. The director may require developments or redevelopments that disturb less than one-tenth (.1) of an acre to obtain a grading permit as deemed necessary to protect adjacent properties or streams from erosion and off-site sedimentation. Such activities shall require:

(A) Grading permit application;

(B) One (1) copy of a sketch plan is required for land disturbing activity of greater than one-tenth (.1) of an acre and less than one (1) acre.

(C) Three (3) copies of a full EPSC plan, as set forth in this chapter and the manual for land disturbing operations of one (1) acre or greater and all non-residential developments or redevelopments of any size, along with a copy of any applicable state or federal permits;

(D) Appropriate fee, if applicable;

(E) Development Services Department review and approval of the plans;

(F) Preconstruction Meeting, if applicable

(G) Site inspection and inspection documentation, in accordance with this chapter;

(H) Grading permit;

(I) Ongoing and final inspection; and

(J) Final Inspection Letter, after final inspection, for certification of compliance from the director.

(ii) Installation, maintenance, and repair of any underground public utility lines when such activities occur within fifty feet (50') of waters of the state.

(c) The director may require developments or redevelopments that conform to § 16-504(2)(a) to develop a full EPSC plan, as set forth in this chapter and the manual, as

deemed necessary to protect streams and adjacent properties from erosion and off-site sedimentation.

(d) Land disturbing activities not exempted under § 16-504(2) of this chapter shall not commence until:

(i) The owner or operator of any land-disturbing activities that will result in greater or equal to one (1) acre of disturbed area obtains from the Tennessee Department of Environment and Conservation a Notice of Coverage (NOC) under the State of Tennessee General NPDES Permit for Discharge of Stormwater Associated with Construction Activities, or certification that the land-disturbing activity does not require coverage under the state permit, prior to obtaining a grading permit. A copy of the NOC and the associated Stormwater Pollution Prevention Plan (SWPPP) or certification that the site does not require coverage under the state permit must be submitted prior to the issuance of a grading permit.

(ii) The owner or operator shall obtain all required permits for the applicable development or redevelopment from the state and/or federal agency(s). A copy of the permit(s) must be submitted before a grading permit will be issued.

(2) Exemptions. The exemptions listed in this section shall not be construed as exempting these land-disturbing activities from providing adequate erosion prevention and sediment control measures to protect adjoining property owners, nearby watercourses or streams and the public right-of-way from sediment impacts. The owner or operator whose activities have been exempted from the requirements for a grading permit shall nevertheless be responsible for otherwise conducting all land-disturbing activities in accordance with the provisions of this chapter and other applicable laws, including responsibility for controlling erosion, sedimentation, and runoff. The only exemptions are as follows:

(a) Any land-disturbing activity that is less than one-tenth (1/10) acre that:

(i) Is not part of a larger common plan of development or sale that would disturb more than one (1) acre; or

(ii) Is not located within two hundred feet (200') of the bank of any waters of the state.

(b) Installation, maintenance, and repair of any underground public utility line when such activity:

(i) Involves less than one (1) acre of disturbed land; or

(ii) Is not within two hundred feet (200') of the bank of any waters of the state.

(c) Agricultural practices that lie outside the 100-year floodway.

(d) Emergency work to protect life or property. Upon completion of emergency work the disturbed area shall be shaped and stabilized in accordance with this chapter. The city must be contacted within seventy-two (72) hours of the incident.

(3) Pre-construction conference and inspection.

(a) For all land-disturbing activities greater than 0.10 acres, a grading permit shall be issued only after a pre-construction inspection by the director's designee indicates that initial erosion prevention and sediment control measures have been installed in accordance with the approved plan.

(b) Attendance at a pre-construction meeting with the director prior to issuance of a grading permit is required for owners and operators of developments or redevelopments that are:

(i) Required to submit an EPSC, comprehensive development plan,

stormwater management plan; or

(ii) A priority construction activity, as defined in this chapter; or

(c) Owners and operators of land development activities not listed in § 16-504(4)(a) may be required to attend a pre-construction meeting when coordination with adjacent construction activities is needed or when conditions indicate a higher-than-normal risk for pollutant discharges.

(d) When a pre-construction meeting is required, the property owner/developer and the project contractor for the proposed development must be in attendance.

(4) Grading permits--time limitations, phasing and conditions.

(a) The grading permit application shall at a minimum contain an erosion prevention and sediment control plan prepared as required by this chapter and the State of Tennessee General NPDES Permit for Discharge of Stormwater Associated with Construction Activities in effect at the time of submission. The plan can be included with the overall stormwater management plan, comprehensive development plan or can be a standalone plan.

(b) Grading permits shall expire one (1) year from the date of permit issuance. After one (1) year, the grading permit will become null, and void and the erosion prevention and sediment control plan must be resubmitted for approval. Resubmitted plans shall be in conformance with the State of Tennessee General NPDES Permit for Discharge of Stormwater Associated with Construction Activities in effect at the time of resubmittal.

(c) If a tract is to be developed in phases, then a separate grading permit may be required for each phase.

(d) The issuance of a grading permit does not authorize the discharge of hazardous substances or oil resulting from a spill that occurs on the site of the land-disturbing activity. A grading permit issued by the city may specify any condition under which the land disturbing activity shall be undertaken. The issuance of a grading permit does not relieve the permittee of any obligation or responsibility of complying with the provisions of any other law or rules and regulations of any federal, local, or additional state authority. It is the responsibility of the owner or operator to thoroughly review, understand and adhere to all applicable local, state, and federal laws and regulations with regard to site development and property regulations when submitting the EPSC or sketch plan. (as added by Ord. #04-041, Nov. 2004, and replaced by Ord. #08-154, Feb. 2008, and Ord. #13-304, March 2013)

#### **16-505. Stormwater management plan.**

(1) General requirements.

(a) The stormwater management plan shall include the specific required elements that are listed and/or described in the manual. The director may require submittal of additional information in the stormwater management plan as necessary to allow an adequate review of the existing or proposed site conditions. Omission of any required items shall render the plans incomplete, and they will be returned to the applicant prior to review by the director.

(b) The stormwater management plan shall be subject to any additional requirements as set forth in the City of Alcoa's subdivision regulations, zoning ordinances, streets, and drainage construction specifications and/or all other city regulations.

(c) No building permit shall be issued until the required stormwater management plan is approved by the director.

(d) The stormwater management plan shall be prepared and stamped by an engineer, landscape architect, or architect competent in civil and site design and licensed to practice in the State of Tennessee. Portions of the stormwater management plan that require hydraulic and/or hydrologic calculations and design shall be prepared and stamped by a professional engineer competent in civil and site design and licensed to practice in the State of Tennessee.

(e) Other state and/or federal permits that may be necessary for construction in and around streams and/or wetlands shall be approved through the appropriate lead regulatory agency prior to final approval of a stormwater management plan to the City of Alcoa.

(f) Best management practices, stormwater management facilities, water quality buffers and water quality volume credit areas shown in stormwater management plans shall be maintained through the declaration of a protective covenant, entitled "Covenants for Permanent Maintenance of Stormwater Best Management Practices." The covenant must be approved and shall be enforceable by the City of Alcoa. The covenant shall be recorded with the deed, run with the land, and continue in perpetuity.

(g) Permanent best management practices, stormwater control measures, water quality buffers, and water quality volume credit areas shall be placed into a permanent easement that is recorded with the deed to the parcel. A maintenance right-of-way or easement, having a minimum width of fifteen feet (15') from a public road or private road shall also be provided to access such permanent easements.

(h) Owners of land development activities not exempted from submitting a stormwater management plan may be subject to additional watershed or site specific requirements other than those stated in this chapter in order to satisfy local, state or federal requirements, or where the director has determined through stormwater master plans, engineering studies, a history of existing or documented water quality problems, or engineering judgment that additional restrictions are needed to limit adverse impacts of the proposed development on water quality, channel protection, overbank flooding and/or extreme flooding. Areas subject to additional requirements may also include developments, redevelopments or land uses that are considered pollutant hotspots.

(i) The director may waive or modify the requirements of this chapter or the manual if adequate water quality treatment, channel protection, overbank flood protection and/or extreme flood protection are suitably provided by a downstream or shared off-site stormwater control measure or if engineering studies determine that installing the required best management practice(s) would actually cause adverse impact to water quality or cause increase channel erosion or downstream flooding.

(j) This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, deed restrictions or existing ordinances and regulations. However, where the provisions of this chapter and other regulations conflict or overlap, that provision which is more restrictive or imposes higher standards or requirements shall prevail. It is required that the director be advised of any such regulatory conflicts upon submittal of the plan.

(2) Applicability--stormwater management plan.

(a) Any non- residential development or redevelopment of any size or any residential development or redevelopment that will result in a land-disturbing activity that is greater or equal to one (1) acre shall submit a stormwater management plan for approval by the director.

(b) The stormwater management plan shall be submitted in conjunction with the Erosion Prevention and Sediment Control Plan (EPSC), and/or comprehensive development plan, for proposed development and redevelopment in accordance with and as required by this chapter and all rules, regulations, and specifications of the City of Alcoa.

(c) Existing land use, as defined in this chapter, for which a stormwater management plan was not required prior to the effective date of this chapter shall be exempted from the

requirements of a stormwater management plan.

(3) Conformity to plans.

(a) The approved stormwater management plan, upon which subsequent permits may be issued by the City of Alcoa, shall be adhered to during grading and construction activities. Under no circumstance is the owner or operator, or any person acting on the owner's or operator's behalf, allowed to deviate from the approved stormwater management plan without prior approval of a plan amendment by the director. Amendments to the approved plan must comply with this chapter. The approved stormwater management plan shall be amended if it is determined by the director during the course of grading or construction that the approved plan is inadequate. The approved stormwater management plan shall be amended if the proposed site conditions change after plan approval is obtained.

(b) Material submittals will be required for infrastructure to be dedicated to the city, located in the right of way, or for manufactured (stormwater) treatment devices prior to installation of the facilities.

(4) Stormwater quality treatment requirements. All new developments or redevelopments required to submit a stormwater management plan shall provide treatment of stormwater runoff in accordance with the following requirements:

(a) Stormwater runoff generated from the development or redevelopment must be treated for water quality prior to discharge from the property in accordance with the stormwater quality standards and criteria provided in the manual.

(b) Stormwater control measures intended for compliance with the stormwater quality standards shall be designed and constructed in accordance with the design criteria, guidance, and specifications for water quality provided in the manual.

(c) Methods, designs, or technologies for stormwater control measures that are not provided in the manual for stormwater management may be submitted for approval by the director if it is proven that such methods, designs or technologies will meet or exceed the stormwater treatment standards set forth in the manual and this chapter. Certification of the pollutant removal efficiency of a stormwater control measure by an independent agency, as identified in the water quality SCM manual, may be required.

(d) Stormwater control measures shall not be installed within the public right-of-way without prior approval of the director.

(5) Channel protection requirements. Downstream channel erosion protection may be required in accordance with the design criteria stated in the manual.

(6) Flood protection.

(a) Overbank flood protection shall be provided such that the calculated peak discharge of stormwater runoff resulting from the 2-year, 10-year, and 25-year return frequency, 24-hour duration storm events shall be no greater after development or redevelopment of the site than that which would result from the same 2-year, 10-year, and 25-year return frequency, 24-hour duration storms on the same site prior to development or redevelopment.

(b) Extreme flood protection shall be provided such that the calculated peak discharge of stormwater runoff resulting from a 100-year frequency, 24-hour duration storm shall be no greater after development or redevelopment of the site than that which would result from a 100-year frequency, 24-hour duration storm on the same site prior to development or redevelopment.

(c) A downstream hydrologic analysis shall be performed as described in the manual to determine if the proposed development or redevelopment causes an increase in peak discharge as compared to predevelopment runoff rates for the same site or has the

potential to cause downstream channel and streambank erosion. If the analysis determines downstream flood protection is necessary in the analysis area, said protection shall be provided in accordance with the criteria established in the manual.

(d) Developments and redevelopments for which flood protection requirements are waived are not exempt from conformance with stormwater quality treatment requirements and may not be exempt from downstream channel protection requirements.

(7) Sinkhole requirements. The following sinkhole and drainage well plan information and/or approval from the appropriate regulatory agency must be provided prior to the alteration of the natural drainage for a watershed discharging to such features as sinkholes and/or drainage wells.

(a) Proposed onsite and offsite drainage channels that are tributary to a sinkhole throat or drainage well inlet shall be delineated, along with appropriate hydraulic calculations, to define the existing and altered (if appropriate) 100-year flood plain and to confirm that offsite flooding will not be increased.

(b) Detailed contours are to be shown for all sinkholes that are to receive stormwater runoff from the site. These contours are to have a maximum interval of two feet (2') and are to be verified by field surveys.

(c) The extent of the area considered to be a sinkhole is, at a minimum, the limits determined by the 100-year water surface elevation, assuming plugged conditions (zero outflow).

(d) A geologic investigation of all sinkholes receiving stormwater runoff from the site shall be performed. The report from this investigation shall be signed and sealed by a registered professional experienced in geology and groundwater hydrology and shall contain the following:

- (i) Location and nature of aquifers;
- (ii) Potential for siltation problems;
- (iii) Foundation problems that may be expected around sinkholes;
- (iv) Details of drainage structures to be built in sinkholes;
- (v) Any other factors relevant to the design of drainage from sinkholes;
- (vi) Plans showing the 100-year floodplain;
- (vii) This floodplain shall be designated as a drainage easement on final subdivision plat;
- (viii) Details of plan for grading and clearing of vegetation within the 100-year flood plain.

(e) Compliance with any and all conditions that may be required by the federal government or the State of Tennessee shall be documented. The Tennessee Division of Groundwater Protection is the primary regulatory agency for sinkholes and drainage wells. Demonstration that development will not occur within the area flooded by the 100-year flood. The 100-year elevation may be lowered by construction of a detention pond. Calculations that document a lowering of the 100-year flood elevation shall be based on the 100-year, 24-hour storm using an appropriate safety factor for discharge into the sinkhole. (as added by Ord. #04-041, Nov. 2004, and replaced by Ord. #08-154, Feb. 2008, and Ord. #13-304, March 2013)

#### **16-506. Grading, construction, erosion prevention and sediment control.**

(1) Purpose. The City of Alcoa has in the past experienced development causing the displacement of large quantities of earth. Soil erosion and sedimentation can result from such development. Sediment is one (1) cause of the contamination of water supplies and water resources and a cause of pollution. A build-up of sediment can negatively impact resources, clog watercourses and cause flooding, which can result in damage to public and private lands. The result is a threat to the health, safety, and general welfare of the community.

(2) Existing eroding areas. Upon written notification from the director, the owner of any parcel

of land which exhibits unstable or eroding soil conditions shall correct such conditions within a thirty (30) calendar day period. This period may be extended upon request if conditions warrant. Minimum correction measures shall include stabilizing slopes and re-vegetating all exposed soil surfaces. Before commencing corrective measures, the owner shall consult with the director to determine an acceptable method of correction.

(3) EPSC and sketch plan required components.

(a) Erosion Prevention and Sediment Control plans (EPSC plans) submitted to the director shall contain the required components, as listed in and in accordance with the State of Tennessee General **NPDES** Permit Discharge of Stormwater Associated with Construction Activities in effect at the time of plan submittal and this chapter, and the manual and as applicable to the proposed land- disturbing activity.

(b) Sketch plans submitted to the director shall contain the required components, as listed in, and in accordance with this chapter and as applicable to the proposed land-disturbing activity.

(c) The director may request that additional information be submitted as necessary to allow a thorough review of the site conditions and proposed erosion prevention and sediment control measures.

(d) Omission of any required items shall render the plans incomplete, and the plans will be returned to the applicant prior to review by the director.

(e) All sketch plans shall be developed by the owner and/or his/her agent

(f) All EPSC plans shall be prepared and stamped according to § 16-505(1)(d).

(g) Any legally protected state or federally listed threatened or endangered species and/or critical habitat located in the area of land- disturbing activities (if any) shall be identified in the EPSC plan. The EPSC plan shall also include written documentation from the United States Fish and Wildlife Service that indicates:

i. Approval of the best management practices that will be utilized to eliminate potential impacts to legally protected state or federally listed threatened or endangered species and/or critical habitat. Said best management practices shall also be included on the EPSC plan; or

ii. A finding of no potential impact as a result of the proposed land-disturbing activity.

(4) Conformity and amendments to approved plans.

(a) The approved EPSC or sketch plan, upon which subsequent permits may be issued by the City of Alcoa, shall be adhered to during all grading and construction activities. Under no circumstance is the owner or operator allowed to deviate from the approved EPSC or sketch plan without prior approval of a plan amendment by the director.

(b) The director shall require the grading permit holder to take corrective actions, which may include amendment of an approved EPSC or sketch plan, if it is determined that the approved plan does not adequately protect against erosion, sedimentation or discharges of other construction related wastes despite the adherence of the owner or operator with approved protective practices.

(c) The owner or operator is required to resubmit an EPSC or sketch plan for approval by the director if site plans or conditions change during land-disturbing activities.

(d) Plan amendments and resubmittals must comply with this chapter.

(5) Documentation kept at the project site Owners or operators of land disturbing activities that require an EPSC, sketch plan, and/or coverage of the State of effective Tennessee General NPDES Permit for Discharges of Stormwater Associated with Construction Activities shall keep documentation listed below at the site of the land-disturbing activity from the date that the grading permit is approved to the date of termination of coverage:

(a) A copy of the approved EPSC or sketch plan;

(b) A copy of the current grading permit;

(c) A copy of the approved SWPPP and notice of coverage;

(d) A copy of the plans as approved by the department of development services; and

(e) Documentation and inspection of the erosion prevention and sediment control practices located on the site of the land-disturbing activity, prepared in accordance with the inspection documentation requirements of the effective State of Tennessee General NPDES Permit for Discharges of Stormwater Associated with Construction Activities, if applicable.

(f) Any other records required by the effective Tennessee General NPDES Permit for Discharges of Stormwater Associated with Construction Activities.

(6) Inspections. During grading or construction, site inspections shall be performed in accordance with the following:

(a) The owner or operator, or his/her designee, shall perform regular, documented inspections of the land-disturbing activity in accordance with the inspection requirements of the effective State of Tennessee NPDES Permit for Discharges of Stormwater Associated with Construction Activities and this chapter, and the manual.

(b) Site inspection documentation shall be maintained on-site during normal working hours by the owner or operator or designee and shall be made available for review by the director immediately upon request.

(7) Fees. The Board of Commissioners of the City of Alcoa at its discretion may set fees for obtaining a grading permit. Such fee schedule may be established by resolution.

(8) General criteria. The following general criteria are minimum requirements for the control of pollutants from land-disturbing activities. The criteria shall apply to all features of the site including street, utility installations, drainage facilities, and to all stages of any land-disturbing activity.

(a) Requirements for best management practices. Owners and operators of land-disturbing activities shall design, construct/install, and maintain appropriate best management practices (BMPs) for erosion prevention and sediment control and the control of other construction related wastes, as defined in this chapter, in accordance with the effective State of Tennessee General NPDES Permit for Discharges of Stormwater Associated with Construction Activities and the Tennessee Erosion and Sediment Control Handbook, latest edition, except where more stringent criteria are set forth in this chapter or are required by the director.

(b) More stringent criteria or standards. The director may require more stringent criteria and standards when deemed necessary to reduce the potential for pollution impacts to streams, public property, or adjacent property from sediment-laden stormwater runoff or discharges of other construction related wastes.

(c) Installation of controls before grading begins. Erosion prevention and sediment controls and measures for the control of other construction related wastes shall be in place and functional before a grading permit will be issued and earth moving operations begin.

(d) Control measure maintenance standards. Erosion prevention and sediment controls and measures for the control of other construction related wastes shall be maintained throughout land-disturbing activities to ensure they are fully functional at all times. Temporary controls and measures may be removed at the beginning of the workday when they conflict with the day's activities but must be replaced at the end of the workday. If periodic inspections or other information indicate that a control measure has been used inappropriately or incorrectly, the owner or operator must replace or modify the control for relevant site situations.

(e) Establishment of permanent vegetation. A permanent vegetative cover shall be established on disturbed areas not otherwise permanently stabilized as set forth in the effective State of Tennessee General NPDES Permit for Discharges of Stormwater Associated with Construction Activities and the Tennessee Erosion and Sediment Control Handbook, latest edition. If it is determined by the director that the vegetation will not withstand seasonal weather conditions, the release of un-obligated monies or bonds may be delayed.

(f) Protection of adjacent properties. Sediment controls shall be designed to retain mobilized sediment on the site of the land-disturbing activity. Properties adjacent to the site of a land-disturbance activity shall be protected from sediment deposition. If sediment escapes the construction site, off-site accumulations of sediment that have not reached a stream must be removed as soon as possible (e.g., fugitive sediment that has escaped the construction site and has collected in a street must be removed so that it is not subsequently washed into storm sewers and streams by the next rain and/or so that it does not pose a safety hazard to users of public streets) and measures implemented to prevent the reoccurrence of the same. Should sediment deposition occur in streams, owners or operators shall not initiate remediation/ restoration of a stream without first receiving approval from the City of Alcoa and TDEC. Approval for remediation/restoration efforts from the City of Alcoa does not authorize access to private property. Arrangements concerning removal of sediment on adjoining property must be settled by the owner or operator with the adjoining landowner.

(g) Timing and stabilization of sediment trapping measures. Sediment basins and traps, perimeter dikes, and other measures intended to trap sediment on-site must be constructed as a first step in grading and be made functional before up slope land disturbance takes place.

(h) Earthen structures such as dams, dikes, and diversions must be stabilized within seven (7) days of construction. These measures must be maintained in good working order and must remain in place until such time as the director deems the area to be stabilized and/or as required by the effective State of Tennessee General NPDES Permit for Discharges of Stormwater Associated with Construction Activities.

(i) Sediment basins. Temporary basins shall be designed in accordance with the effective State of Tennessee General NPDES Permit for Discharges of Stormwater Associated with Construction Activities, except where more stringent criteria are required by the director. Any equivalent control measure that is substituted for a temporary sediment basin must be justified

and approved by the director.

(j) Permanent detention ponds that will be used as sediment basins during construction shall be designed so that the permanent detention pond outlet structure serves as the outlet structure of the sediment basin. All permanent detention ponds used as sediment basins shall be cleaned of loose sediments, re-graded to ensure design capacity, and stabilized prior to conversion. The placement of sod, as opposed to seed, shall be used as the stabilization method on sediment basins that must remain in place for an indefinite period of time, such as during residential subdivision development. Sod shall be installed from the permanent pool elevation to the top of the berm. Stabilization measures other than sod may be approved by the director. In addition, converted detention ponds must meet the criteria as set forth in § 16-510 prior to release of bond and/or Certificate of Occupancy (CO).

(k) Sodding detention ponds, ditches, and draining swales during construction. Sod shall be used on detention ponds, ditches, and drainage swales or if velocities warrant other stabilization techniques. Stabilization methods other than sodding may be approved by the director. The owner or operator shall maintain sodded areas until vegetation is permanently established.

(l) Cut and fill slopes. Cut and fill slopes must be designed and constructed in a manner which will prevent erosion. Consideration must be given to the length and steepness of the slope, the soil type, upslope drainage area, groundwater conditions, and other applicable factors. Slopes which are found to be eroding excessively within one (1) year of project completion must be provided with additional slope stabilizing measures until the problem is corrected. The following guidelines shall be utilized to prepare and implement an adequate design for cut and fill slopes:

i. Topsoil for the area should be stockpiled and then used for replacement on the graded area.

ii. Roughened soil surfaces are generally preferred to smooth surfaces on slopes.

iii. Diversions should be constructed at the top of long steep slopes which have significant drainage areas above the slope. Diversions or terraces may also be used to reduce slope length.

iv. Concentrated stormwater should not be allowed to flow down cut or fill slopes unless contained within an adequate temporary or permanent channel, flume, or slope drain structure.

v. Wherever a slope face crosses a water seepage plane which endangers the stability of the slope, adequate drainage or other protection should be provided.

vi. Slopes 3:1 or steeper shall be stabilized with erosion control matting or approved equal. The owner or operator shall maintain matted areas until vegetation is permanently established.

(m) Working in or crossing stream or watercourse. Construction vehicles shall be kept out of streams and watercourses. The channel (including beds and banks) must always be re-established immediately after in-channel work is completed. Where a stream or watercourse must be crossed by construction vehicles regularly during construction, a temporary crossing must be provided, the design of which must be approved by the director and the State of Tennessee where appropriate.

(n) Underground utility construction. The construction of underground utility lines shall be subject to trench dewatering devices or other methods. Water shall be discharged in a manner which will not adversely affect flowing streams, drainage systems, or off-site property. Dewatering of any best management practice shall be performed as set forth in

the effective State of Tennessee General NPDES Permit for Discharges of Stormwater Associated with Construction Activities.

(o) Temporary stone construction entrance. Wherever construction access routes intersect paved public and/or private roads, provisions must be made to minimize the transport of sediment by runoff or vehicle tracking onto the paved surface by clearing the area at the entrance of all vegetation, roots, and other objectionable material and placing a two inch (2") to three inch (3") diameter stone layer at least six inches (6") thick for a minimum of fifty feet (50') from the edge of the hard surface public road. The construction entrance must be underlain with filter fabric. This entrance shall be a minimum of twenty feet (20') in width, a minimum length of fifty feet (50'), and shall be maintained for the duration of the project or until a permanent access drive is constructed. The stone layer shall be replaced or overlain with new stone when necessary to ensure that sediment is not transported off the site of the land-disturbing activity. Where sediment is transported onto a public road surface, the roads shall be cleaned thoroughly at the end of each day or more often if deemed necessary. Sediment shall be removed from roads by shoveling or sweeping and be transported to a sediment-controlled disposal area. Street washing shall be allowed only after sediment is removed in this manner.

(p) Removal of temporary measures. All temporary erosion prevention and sediment control measures shall be disposed of within thirty (30) days after final site stabilization is achieved or after the temporary measures are no longer needed, unless otherwise authorized by the director. Trapped sediment and other disturbed soft areas resulting from the disposition of temporary measures shall be properly disposed of and/or permanently stabilized to prevent further erosion and sedimentation.

(q) Stripping, cleaning, and grading to be minimized. Stripping of vegetation, re-grading, and other development activities shall be conducted so as to minimize erosion. Clearing and grubbing must be held to the minimum necessary. Pre-construction vegetative cover shall not be destroyed, removed, or disturbed more than fourteen (14) calendar days prior to grading or earth moving. Construction must be sequenced to minimize the exposure time of cleared surface areas. (as added by Ord. #04-041, Nov. 2004, and replaced by Ord. #08-154, Feb. 2008, and Ord. #13-304, March 2013)

#### **16-507. Water quality buffers.**

(1) Purpose. It is the purpose of the water quality buffers to:

- (a) Protect public and private water supplies;
- (b) Minimize thermal stream pollution by adding or preserving stream canopy;
- (c) Trap sediment, nutrients and other pollutants in surface run-off;
- (d) Promote bank stabilization;
- (e) Protect wetlands;
- (f) Minimize the impact of floods;
- (g) Reduce stormwater runoff velocities;
- (h) Protect channel bank area from erosion and scour;
- (i) Protect wildlife habitat; and
- (j) Generally, maintain water quality.

(2) Applicability. § 16-507 shall apply to:

- (a) existing residential and non-residential developments that have water quality buffers included on the plat;

(b) non-residential new development, modifications to existing developments, and/or redevelopments of any size;

(c) residential development or redevelopment that will result in a land-disturbing activity that is greater than or equal to one (1) acre.

(3) Exemptions. Water quality buffers shall not be required around the perimeter of hydraulically disconnected ponds or ponds that are newly designed and constructed for the purposes of stormwater quality treatment.

(4) General requirements for the water quality buffer.

(a) Water quality buffers shall be established (for new developments and redevelopments only), protected, and maintained along all streams, rivers, lakes, ponds, and wetlands that are located in, or portions of which are located in, the City of Alcoa as set forth in this chapter and in the manual.

(b) Any property or portion thereof that lies within the WQB is subject to the restrictions of the WQB as well as any and all zoning restrictions that apply to the parcel as a whole.

(c) The director may require vegetation removal and/or installation if, upon their inspection, the WQB does not conform with, and is unlikely to conform in the future through the growth of existing vegetation, the vegetation standards established in the manual. Any vegetation enhancement in the WQB shall be fully described in EPSC and property landscape plans.

(5) Restrictions within the water quality buffer. The following activities, substances, facilities, and land uses are prohibited within the WQB:

(a) The storage and use of pesticides, herbicides, and fertilizers, except as provided in this chapter;

(b) Impervious surfaces, including parking lots, driveways, structures, buildings, storage facilities, pavement, and other accessories not included in an approved stormwater management plan;

(c) Parking, storage, or maintenance of vehicles and equipment;

(d) Wastes of any type, and waste areas or receptacles for disposal, transfer, and storage, including landfills;

(e) Septic tanks and septic drain fields;

(f) Mining activities, borrow or fill pits, or similar areas and activities, unless prior approval is granted by the director;

(g) Animal concentration areas where animals gather in groups for migration, breeding, feeding, relief, or sheltering, including but not limited to kennels, pens, sheds, barns, holding areas, exercise, loafing, relief, or feeding lots;

(h) Other activities, substances, and uses that are known or suspected to contribute pollutants to waterways; and

(i) Stormwater control measures, except as allowed by the manual.

(6) Protection of the water quality buffer. All water quality buffers must be protected during construction/development activities.

(a) Prior to the initiation of land disturbing activities, construction layout surveys must include staking and labeling of the WQB perimeter. A combination of stakes, flagging and/or silt fence may be used to insure adequate visibility of the WQB. The layout must be inspected and approved by the director before the grading permit issuance.

(b) All areas of the WQB, including stream banks, must be left in a stabilized condition upon completion of construction activities. No activity eroding bare or unstable stream banks shall remain, unless approved by the director. Placement of riprap and other hard armor is allowed only when bioengineering alternatives are not feasible.

(c) WQBs cannot be encroached upon or disturbed during project construction, unless said encroachment is included in an approved stormwater management or erosion prevention and sediment control plan. When approved, encroachment areas shall be revegetated as set forth in the manual.

(d) WQB protection and maintenance shall be the responsibility of the property owner.

(7) Plats prepared for recording. Once construction is completed and the certificate of occupancy or final plat is accepted, the WQB shall be protected in perpetuity by placing the buffer in a permanent water quality or other easement that is recorded on the property's plat. Unless otherwise provided herein, all site development plans and plats prepared for recording shall:

(a) Show the extent of any **WQB** on the subject property by metes and bounds and be labeled as "Water Quality Buffer."

(b) Provide a note with reference to the WQB stating that there shall be no clearing, grading, construction, or disturbance of vegetation except as permitted by City of Alcoa Development Services.

(8) Conflict with state requirements. The State of Tennessee may require water quality buffers during construction activities via provisions contained in the State of Tennessee General NPDES Permit for Discharges of Stormwater Associated with Construction Activities or other regulatory permits and processes. The state's requirements may, or may not, align with the City of Alcoa's requirements and policies for water quality buffers. It is the responsibility of the site developer to be informed and educated on any state level buffer requirements. If a site developer intends to apply the City of Alcoa's buffer requirements in lieu of any requirements of the State of Tennessee, the developer must first obtain approval from TDEC and provide the City of Alcoa with written documentation of such approval. In instances where the city and TDEC requirements conflict, the more stringent shall apply. (as added by Ord. #04-041, Nov. 2004, and replaced by Ord. #08-154, Feb. 2008, and Ord. #13-304, March 2013)

#### **16-508. Non-stormwater discharges (illicit discharge, detection and elimination).**

(1) Purpose. The uncontrolled discharge of pollutants to the stormwater system has an adverse impact upon the water quality of the receiving waters.

(a) The 1987 amendments to the Federal Water Pollution Control Act, commonly known as the Clean Water Act, established the National Pollutant Discharge Elimination System (NPDES) program, which requires permits for discharges from stormwater systems into waters of the United States. The Environmental Protection Agency has promulgated regulations implementing the NPDES program.

(b) The NPDES regulations for stormwater discharges require certain municipalities, including the City of Alcoa, to:

(i) Prohibit through ordinance, order or similar means, illicit discharges to the stormwater system;

(ii) Develop and implement a plan to detect and address non-stormwater discharges including illegal dumping;

(iii) Implement appropriate enforcement procedures and actions; and

(iv) Identify and prohibit contamination of stormwater from "pollutant hotspots," as defined in this chapter.

(2) Prohibitions.

(a) No person shall cause or allow an illicit discharge to the stormwater system, or any component thereof, or onto driveways, sidewalks, streets, parking lots, sinkholes, creek banks, or other areas draining to the stormwater system. Illicit discharges include, but are not limited to the following:

(i) Any sanitary sewer, including any sanitary sewer connected to the stormwater system as of the date of adoption of this chapter except as deemed unavoidable due to collection system operation/maintenance and extreme weather events;

(ii) Discharges of wash water resulting from the hosing or cleaning of gas stations, auto repair garages, or other types of automotive services facilities;

(iii) Discharges resulting from the cleaning, repair, or maintenance of any type of equipment, machinery, or facility, including motor vehicles, cement-related equipment, and port-a-potty servicing, etc.;

(iv) Discharges of wash water from mobile operations such as mobile automobile washing, steam cleaning, power washing, and carpet cleaning, etc.;

(v) Discharges of wash water from the cleaning or hosing of impervious surfaces in industrial and commercial areas including parking lots, streets, sidewalks, driveways, patios, plazas, work yards, and outdoor eating or drinking areas, etc.;

(vi) Discharges from material storage areas containing chemicals, fuels, grease, oil, or other hazardous materials;

(vii) Discharges of pool or fountain water containing chlorine, biocides, or other chemicals; at the point of entry to an enclosed storm sewer system; discharges of pool or fountain filter backwash water;

(viii) Discharges of sediment, or construction-related wastes, etc.;

(ix) Discharges of food-related wastes (e.g., grease, food processing, restaurant kitchen mats and trash bin wash water, etc.);

(x) Discharges of heated water from commercial or industrial operations;

(xi) Discharges of dyes (without prior permission of the city);

(xii) Discharges of laundry wastewater;

(xiii) Known discharges from leaking water or sewer lines remaining uncorrected for seven days;

(xiv) Discharges or discarding of animal fecal waste or dead animals;

(xv) Discarding vehicles, equipment parts and/or fluid;

(xvi) Discarding lawn clippings, leaves, or branches;

(xvii) Discarding trash or debris into containers or areas not intended for the purpose of trash/debris disposal; and

(xviii) Discharges from the following land uses, areas or activities that are identified herein as pollutant hotspots:

(A) Vehicle, truck or equipment maintenance, fueling, washing or storage areas including but not limited to: gas stations, automotive dealerships, automotive repair shops, and car wash facilities;

(B) Any property containing more than four hundred (400) parking spaces, or one hundred twenty thousand (120,000) square feet of impervious area;

(C) Recycling and/or salvage yard facilities;

(D) Restaurants, grocery stores and other food service facilities;

(E) Commercial facilities with outside animal housing areas, including

animal shelters, fish hatcheries, kennels, livestock stables, veterinary clinics, or zoos;

(F) Construction areas;

(G) Other producers of pollutants identified by the director by information provided to or collected by him/her or his/her representatives, or reasonably deduced or estimated by him/her or his/her representatives from engineering or scientific study.

(b) Subject to the provisions of subsection (c), the following discharges shall not be in violation of this chapter:

(i) Waterline flushing of potable waterlines;

(ii) Landscape irrigation;

(iii) Diverted stream flows or rising groundwater;

(iv) Infiltration of uncontaminated groundwater (as defined at 40 C.F.R., 35.2005(20)) to separate storm drains;

(v) Pumping of uncontaminated groundwater;

(vi) Discharges from potable water sources, foundation drains, uncontaminated air conditioning condensation, irrigation waters, springs, water from crawl space pumps, or footing drains;

(vii) Lawn watering;

(viii) Individual noncommercial car washing on residential properties; or car washing of less than two (2) consecutive days in duration for a charity, nonprofit fund raising, or similar noncommercial purpose;

(ix) Flows from riparian habitats and wetlands;

(x) Dechlorinated swimming pool discharges;

(xi) Incidental street wash water from street cleaning equipment designed for cleaning paved surfaces and limiting waste discharges;

(xii) Street deicing for public safety;

(xiii) Any activity authorized by a valid NPDES permit;

and

(xiv) Any flows resulting from firefighting.

(c) If the director finds that any of the activities listed in subsection (b) above are found to cause or may cause sewage, industrial wastes or other objectionable wastes to be discharged into the stormwater system, the director shall so notify the person performing such activities and shall order that such activities be stopped or conducted in such a manner as to avoid the discharge of sewage, industrial wastes or other wastes into the stormwater system.

(3) Notification of spills and illicit discharges. As soon as any person has knowledge of any illicit spills or discharges to the stormwater system in violation of this chapter, such person shall immediately notify the director of this discharge. If such person is directly or indirectly responsible for such discharge or responsible for the operation of the system or business, then such person shall also take immediate action to ensure the containment and cleanup of such discharge and shall confirm such telephone notification with a written report to the director within three (3) calendar days.

(a) At a minimum, the written report for any illicit discharge shall include:

(i) Date and time of the discharge;

(ii) Location of the discharge;

(iii) Material or substance discharged;

(iv) Duration and rate of flow;

(v) Total volume discharged;

- (vi) Total volume recovered;
- (vii) Cause or reason for the discharge;
- (viii) Remediation and containment action taken;
- (ix) Material Safety Data Sheets (MSDS) for the discharged material (if applicable);
- (x) Action taken to prevent further discharges; and
- (xi) Description of any environmental impact.

(4) Requirements for monitoring. The director may require any person engaging in any activity or owning any property, building or facility (including but not limited to a site of industrial activity) to undertake such reasonable monitoring of any discharge(s) to the stormwater system operated by the city and to furnish periodic detailed reports of such discharges. (as added by Ord. #04-041, Nov. 2004, and replaced by Ord. #08-154, Feb. 2008, and Ord. #13-304, March 2013)

**16-509. Performance bonds.**

(1) General requirements.

(a) Performance bonds shall name the City of Alcoa as beneficiary and shall be guaranteed in the form of a surety bond, cashier's check, or letter of credit from an approved financial institution or insurance carrier. The surety bond, cashier's check, or letter of credit shall be provided in a form and in an amount to be determined by the director. The actual amount shall be based on the submission of plans and estimated construction, installation, or potential maintenance and/or remediation expenses.

(b) The director may refuse brokers or financial institutions the right to provide a surety bond, letter of credit, or cashier's check based on past performance, ratings of the financial institution, or other appropriate sources of reference information.

(2) Prior to issuance of a grading permit.

(a) When reviewing any application for a grading permit, the city shall consider the past record of the permit applicant in complying with previous grading permits, plans, and this chapter. The city may require the permit applicant to post a performance bond prior to issuing the grading permit. If a permit applicant has had three (3) or more violations of previous permits or this chapter as amended within three (3) years prior to the date of filing of the application under consideration, the city shall require a performance bond before the grading permit is issued.

(b) Upon forfeiture, the city at its election may use the performance bond proceeds or any part thereof to hire a contractor and/or use its own forces to stabilize and place erosion control measures on the site of the land-disturbing activity.

(c) A performance bond in the form of government security, cash, or any combination may be provided for the following conditions:

(i) Rough grading, site development, large residential developments, or commercial development when there is a disturbed area greater than five (5) acres.

(ii) Where there exists a substantial likelihood for runoff or sediment problems to adversely impact city rights-of-way, other property, or waters of the state.

(iii) When a site drains into sinkholes or when the site is used for a borrow pit or waste area.

(c) Any bond amount shall be based on a remediation and completion estimate as determined by the director based on the size of the disturbed area.

(d) Within sixty (60) days of the final inspection, the balance of all bonds not extended or obligated shall be refunded or terminated except as otherwise provided therein.

(e) Performance bond may be released upon receiving the final certificate of occupancy or final plat along with site visit and release approval by the director.

(3) Prior to final plat approval. Prior to plat approval, a performance bond which guarantees satisfactory completion of construction work related to the erosion and sediment control, stormwater management plan, best management practices, water quality buffers and/or water quality treatment may be required for a period of two (2) years. (as added by Ord. #04-041, Nov. 2004, and replaced by Ord. #08-154, Feb. 2008, and Ord. #13-304, March 2013)

**16-510. As-built certifications.**

(1) Prior to the release of a bond or the certificate of occupancy, accurate as-built drawings shall be provided to, and approved by, the director, certifying that all best management practices, stormwater control measures, and other stormwater management facilities on the property are constructed in compliance with the design shown on the approved stormwater management plan. Features such as the boundaries of vegetated buffers, water quality volume credit areas, water quality buffers, stormwater management facilities, elevation of structural BMPS etc. shall be provided to verify compliance with approved plans. Other contents of the certifications must be provided in accordance with guidance provided in the manual for stormwater quality management.

(2) As-built drawings shall be prepared in keeping with the requirements established in the manual and shall include sufficient design information to show that the best management practices, stormwater control measures and other stormwater management facilities are fully operational in the manner intended by the approved stormwater management plan. This shall include all necessary computations used to determine percent pollutant removal and the flow rates and treatment volumes for quality as required to size stormwater control measures and detention/retention volume for quantity.

(3) The as-built drawings shall be stamped by the appropriate design professional required to stamp the approved plans, as stated in § 16-505(1)(d) of this chapter. (as added by Ord. #04-041, Nov. 2004, and replaced by Ord. #08-154, Feb. 2008, and Ord. #13-304, March 2013)

(4) The director shall rely on the as-built drawings and related onsite inspections to determine construction conformance with the approved stormwater management plan. Where conformance has not been achieved, corrective actions shall be required. Corrective actions can include, but are not limited to:

(a) revision and resubmittal of stormwater management plans or as-built drawings or portions thereof to prove the nonconforming stormwater control measures, stormwater management facilities, water quality volume credit areas, and/or water quality buffers meet the requirements of this chapter and the manual, as constructed;

(b) re-construction/modification of the nonconforming stormwater features on the property to meet the approved plan or requirements of this chapter and the manual.

(5) Once approved, the property owner shall record the as-built drawings with the Blount County Register of Deeds. The location of the stormwater control measures, stormwater facilities, water quality buffers, and water quality volume credit areas, and the recorded easements associated with each of these features shall be shown on a plat that is recorded

with the Blount County Register of Deeds.

**16-511. Inspections and maintenance.**

(1) Right of entry.

(a) The director may, during reasonable hours, enter upon any property which discharges or contributes, or is believed to discharge or contribute, to stormwater runoff or the stormwater system, stream, natural drainage way, or other stormwater system to monitor, remove foreign objects or blockages, inspect SCMs, and to inspect for compliance with the provisions of this chapter.

(b) Failure of a property owner, person(s) working on behalf of the property owner, or other legal occupant of the property, such as a lessee, to allow such entry by the director onto a property for the purposes set forth in § 16-511(1)(a) shall be cause for the issuance of a stop work order, withholding of a certificate of occupancy, final plat and/or civil penalties, fines and/or damage assessments in accordance with this chapter.

(2) Requirements.

(a) The owner(s) or his/her designee of stormwater control measures, stormwater facilities, water quality volume credit areas, and water quality buffers shall at all times operate and maintain such features in such manner as to maintain their full and intended function as documented in approved as-built drawings/certifications or city approved design plans if as-built drawings are not available. To do this, owner(s) or his/her designee shall perform inspections of such features at regular and appropriate frequencies. Inspection and maintenance shall be performed at the sole cost and expense of the owner(s) of such features, or his/her designee.

(b) Inspections and maintenance shall be performed in accordance with the requirements provided in this chapter and/or the manual. Prevailing maintenance practices shall be used where this chapter or the manual does not address feature conditions. The director has the authority to impose more stringent inspection and maintenance requirements as necessary for purposes of water quality and quantity protection and public safety.

(c) Inspection and maintenance documentation shall be maintained by the property owner for a minimum of five (5) years and shall be made available for review by the director in accordance with the manual.

(d) The removal of sediment and other debris from stormwater control measures shall be performed in accordance with all local, state and federal laws. The director may stipulate additional guidelines if deemed necessary for public safety.

(e) This chapter does not authorize access to neighboring private property by the owner of stormwater control measures, stormwater facilities, water quality buffer, or water quality volume credit areas or his/her designee. Arrangements for access to neighboring private property by the property owner or his/her designee for purposes of compliance with this chapter must be handled solely by the owner or his/her designee and the owner(s) of the neighboring property(s).

(3) Corrective action. The director may order the property owner or his/her designee to perform corrective actions to stormwater control measures, stormwater facilities, water quality buffers, and areas of water quality volume credit areas as necessary to properly maintain the full and intended function of the features for the purposes of water quality treatment, channel erosion protection, overbank flood protection, extreme flood protection or water quality volume reduction and/or to ensure adherence to local performance standards and/or ensure the public

safety. If the property owner or his/her designee fails to perform corrective action(s), the city manager or his/her designee shall have the authority to order the corrective action(s) to be performed by the city or others. In such cases where a performance bond exists, the city shall utilize the bond to perform the corrective actions. In such cases where a performance bond does not exist or is not sufficient to perform the corrective actions, the city may perform such actions and the property owner shall reimburse the city for double its direct and related expenses. If the property owner fails to reimburse the city in accordance with this section, the City of Alcoa is authorized to file a lien for said costs against the property and to enforce the lien by judicial foreclosure proceedings. (as added by Ord. #04-041, Nov. 2004, and replaced by Ord. #08-154, Feb. 2008, and Ord. #13-304, March 2013)

**16-512. Permit controls and stormwater system integrity.**

(1) Any alteration, improvement, or disturbance to stormwater control measures, stormwater management facilities, water quality buffers or water quality volume reduction areas shown in as-built drawings shall be prohibited without written authorization from the director. This does not include alterations that must be made in order to maintain the intended performance of the stormwater management facilities or BMPs.

(2) Other state and/or federal permits that may be necessary for construction in and around streams and/or wetlands shall be approved through the appropriate lead regulatory agency prior to submittal of a comprehensive development plan, stormwater management plan or other required plan to the city.

(3) **NPDES permits.** Persons or entities who hold NPDES general, individual and/or multi-sector permits shall provide either a copy of such permit or the permit number assigned to them by the Tennessee Department of Environment and Conservation to the director no later than sixty (60) calendar days after issuance of the permit. (as added by Ord. #04-041, Nov. 2004, and replaced by Ord. #08-154, Feb. 2008, and Ord. #13-304, March 2013)

**16-513. Severability.**

(1) This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, deed restrictions or, except where otherwise stated, existing ordinances and regulations. However, where the provisions of this chapter and other regulation conflict or overlap, that provision which is more restrictive or imposes higher standards or requirements shall prevail. It is required that the director be advised of any such regulatory conflicts upon submittal of a comprehensive design plan, stormwater management plan or other required plan.

(2) Each separate provision of this chapter is deemed independent of all other provisions herein so that if any provision or provisions of this chapter shall be declared invalid, all other provisions thereof shall remain enforceable. (as added by Ord. #04-041, Nov. 2004, and replaced by Ord. #08-154, Feb. 2008, and Ord. #13-304, March 2013)

**16-514. Responsibility.** This chapter does not imply a warranty or the assumption of responsibility on the part of the City of Alcoa for the suitability, fitness or safety of any structure with respect to flooding, water quality or structural integrity. This chapter is a regulatory instrument only and is not to be interpreted as an undertaking by the City of Alcoa to design any structure or facility. (as added by Ord. #04-041, Nov. 2004, and replaced by Ord. #08-154, Feb. 2008, and Ord. #13-304, March 2013)

**16-515. Enforcement and penalties.**

(1) Enforcement during construction. The requirements of this chapter shall be enforced by the director or his/her designee who shall inspect all the work, grading or construction involved:

(a) Failure to have Grading Permit. If the director finds any person, firm, or entity has engaged in or directed land-disturbing activities without having obtained a required grading permit, the following shall occur:

(i) First offense. A stop work order and a notice of violation will be issued.

(ii) If work continues. A court citation and/or assessment of civil penalties in the minimum amount of fifty dollars (\$50.00) and a maximum amount of five thousand dollars (\$5,000.00), in accordance with the schedule of penalties included in the manual, for each day work continues without a grading permit.

(iii) The permit fees will double if/when a permit is issued.

(b) Other Violations. Failure to properly install or maintain best management practices, water quality buffer, stormwater management facilities and/or water quality volume credit areas as specified on the approved plans will result in the following actions:

(i) First offense. Verbal warning with a maximum of two (2) days for compliance. If conditions warrant, a stop work order will be immediately issued.

(ii) Second offense. Written warning with a maximum of five (5) days for compliance. If conditions warrant, a stop work order will be immediately issued.

(iii) Third offense. Notice of violation, stop work order, suspension of all site activities until violation corrected, and TDEC notification. If the violation is not corrected on or before the deadline for compliance noted in the notice of violation, then noncompliance after such date will constitute a fourth offense.

(iv) Fourth offense. A court citation and/or civil penalty of a minimum of fifty dollars (\$50.00) per day per violation and a maximum of five thousand dollars (\$5,000.00) per day per violation and possible damage assessment, in accordance with the schedule of penalties that is included in the manual.

(v) An additional penalty of five hundred dollars (\$500.00) may be added to the schedule of penalties that is included in the manual, up to a maximum of five thousand dollars (\$5,000.00) for any person or entity that has more than three (3) violations within three (3) years prior to the date current grading permit or other stamped, dated and approved documentation.

(vi) Any performance bond posted may be forfeited based on the circumstances if compliance is not achieved after notice of violation within the time specified in the notice. Any grading permit granted may also be suspended.

(c) Stop Work Orders. All stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such notice shall be in writing and shall be given to the owner of the property, an agent of the owner, or the person in charge of the job site, or conspicuously posted at the project location, and shall state the necessary corrective actions with a completion date before other activities can resume. The director may release the stop work order if, following inspection of the site, the director finds conformance with all applicable requirements.

(d) Additional Training. Any person or entity who receives three (3) related written notices of violations shall be required to retake or, in the case of an entity, to have its

management retake the Level I Fundamentals of Erosion Prevention and Sediment Control Workshop sponsored by the TDEC or approved equal. If after completing the course again, the same person or entity receives a subsequent written environmental violation within three (3) years of completing the course, requests for other city grading permits may be denied to that person.

(e) **Appeals.** The person may appeal, pursuant to the provisions of §18-816 of the Alcoa Municipal Code, within thirty (30) days of the denial by requesting a hearing by the Alcoa Stormwater Board of Appeals to attempt to obtain the desired permits.

(2) **Enforcement after construction.** The requirements of this chapter shall be enforced by the director who shall inspect the best management practices, stormwater control measures, stormwater facilities, water quality buffers, and/or water quality volume credit areas at regular and appropriate intervals. Failure to properly maintain such features to their full and intended function shall result in a written requirement for corrective action that includes a deadline for compliance. Corrective actions will be in accordance with § 16-511(3). If conditions warrant, a stop work order will be immediately issued. A court citation and civil penalty of a minimum of fifty dollars (\$50.00) per day per violation and a maximum of five thousand dollars (\$5,000.00) per day per violation and possible damage assessment may also be levied on the property owner by the City of Alcoa.

(3) **Variances.** The director may waive or modify specific criteria which are deemed inappropriate or too restrictive for site conditions, by granting a variance as set forth herein. Variances may be granted in writing under the following conditions:

(a) At the time of plan submission, an applicant may request variances to become part of the approved stormwater management plan. The applicant must explain the reasons for requesting variances in writing and must submit documentation that the issuance of a variance will not result in a reduction in water quality. Specific variances which are allowed must be documented on the approved stormwater management plan.

(b) During construction, a permit holder may request variances to the approved plans. Until such time as the amended plan is approved by the city, the land-disturbing activity and associated construction shall not proceed, except in accordance with the plans as originally approved.

(c) Absent unusual circumstances, a response to the variance request should be given by the city within twenty (20) working days. No variance shall be considered valid unless in writing and signed by the director.

(4) **Appeals.** Any applicant or permit holder may appeal decisions or the interpretation of the meaning of this chapter to the Alcoa Stormwater Board of Appeals of the City of Alcoa pursuant to the provisions of § 18-816 of the Alcoa Municipal Code.

(5) **Unlawful acts.** Any person who violates:

(a) Any provision of this chapter;

(b) The provisions of any permit issued pursuant to this chapter;

(c) Fails or refuses to comply with any lawful notice to abate issued by the director, which has not been timely appealed to the Alcoa Stormwater Board of Appeals, within the time specified by such notice; or

(d) Violate any lawful order of the City of Alcoa Stormwater Board of Appeals within the time allowed by such order shall be guilty of a violation. Each day of such violation or failure or refusal to comply shall be deemed a separate offense and punishable accordingly.

(6) Penalties.

(a) Any person violating the provisions of this chapter shall be guilty of a civil ordinance violation. Each day that a continuing violation of this chapter is maintained or permitted to remain shall constitute a separate offense.

(b) Any person violating the provisions of this chapter may be assessed a civil penalty by the city of not less than fifty dollars (\$50.00) nor more than five thousand dollars (\$5,000.00) per day for each day of the violation. Each violation shall constitute a separate violation.

(c) In assessing the civil penalty, the city shall follow the provisions of the schedule of penalties as set forth in the manual and for any violation not listed may consider the following in determining the appropriate amount:

(i) The harm done to the public health or the environment;

(ii) Whether the civil penalty imposed will be of substantial economic detriment to the illegal activity;

(iii) The economic benefit gained by the violator;

(iv) The amount of effort put forth by the violator to remedy this violation;

(v) Any unusual or extraordinary enforcement costs incurred by the municipality;

(vi) The amount of penalty established by ordinance or resolution for specific categories for violations; and

(vii) All equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(d) In addition to the civil penalty in subsection (b) above, the city may recover all damages proximately caused by the violator to the city which may include any reasonable expenses and attorneys' fees incurred in investigating, enforcing and/or correcting the violations of this chapter.

(e) The city may bring legal action to enjoin the continuing violation of this chapter and the existence of any other remedy in law or equity shall be no defense to any such action.

(f) The remedies set forth in this section shall be cumulative, not exclusive, and are not to be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted.

(7) Notice of violation. Whenever the director determines that a violation of any provision of this chapter has occurred, the director may issue a notice of violation to the property owner or operator, utility, facility operator, lessee, tenant, contractor, permittee, the equipment operator and/or any other person or entity violating the provisions of this chapter. The notice of violation shall:

(a) Be in writing;

(b) Include a description of the property sufficient for identification of where the violation has occurred;

(c) List the violation(s);

(d) State the action required; and

(e) Provide a deadline for compliance or to stop work.

(8) Judicial proceedings and relief.

(a) The city attorney may initiate proceedings seeking legal and/or equitable relief in any court of competent jurisdiction against any person who has violated or is making substantial steps towards:

(i) Violating the provisions of this chapter;

(ii) Violating the provisions of any permit issued pursuant to this chapter;

(iii) Failing or refusing to comply with any lawful order issued by the director, which has not been timely appealed to the Alcoa Stormwater Board of Appeals within the time allowed by this chapter; or

(iv) Violating any lawful order of the Alcoa Stormwater Board of Appeals within the time allowed by such order.

(b) The city attorney may also initiate civil proceedings in any court of competent jurisdiction seeking monetary damages for any damages caused to publicly owned stormwater facilities by any person.

(9) Special fund created. All damages and civil penalties collected under this chapter, following adjustment for the expenses incurred in making such collections, shall be allocated and appropriate for the administration of the city's stormwater program. (as added by Ord. #04-041, Nov. 2004, and replaced by Ord. #08-154, Feb. 2008, and Ord. #13-304, March 2013)

**16-516. Repeal clause.** The provisions of any ordinances or resolution or parts thereof in conflict herewith are repealed, except for ordinances or resolutions or parts thereof which provide stricter standards from those provided herein which strict standards should prevail and be enforced. (as added by Ord. #04-041, Nov. 2004, and replaced by Ord. #08-154, Feb. 2008, and Ord. #13-304, March 2013)

**16-517. [Deleted.]** (as added by Ord. #04-041, Nov. 2004, and deleted by Ord. #08-154, Feb. 2008)

**16-518. [Deleted.]** (as added by Ord. #04-041, Nov. 2004, and deleted by Ord. #08-154, Feb. 2008)

SECTION 2. That a public hearing is hereby set for August 13, 2024 at 7:00 p.m.

SECTION 3. That this ordinance shall take effect from and after ten (10) days after its final passage thereof, the public welfare requiring it.

/s/ Tanya Martin  
Mayor

(THE SEAL)  
(OF THE CITY)  
(OF ALCOA)

ATTEST:

/s/ Kimberly Wade  
Recorder

APPROVED AS TO FORM:

/s/ Stephanie Coleman  
City Attorney

Passed on First Reading                      July 9, 2024                      /s/ Kimberly Wade  
Recorder

Passed on Second Reading                      August 13, 2024                      /s/ Kimberly Wade  
Recorder

The foregoing ordinance was entered of record this 14<sup>th</sup> day of August 2024.

/s/ Kimberly Wade  
Recorder