

ORDINANCE NO. 08-153

AN ORDINANCE AMENDING TITLE 18 OF THE ALCOA MUNICIPAL CODE REGULATING WATER, SANITARY SEWERS AND STORM SEWERS STATING FINDINGS OF FACT; DEFINING CERTAIN TERMS; ADOPTING A STORMWATER UTILITY FEE; PROVIDING FOR STORMWATER UTILITY FEE CREDITS; SPECIFYING HOW STORMWATER UTILITY FEE BILLS MAY BE DELIVERED AND COLLECTED; SPECIFYING HOW DELINQUENT STORMWATER FEES MAY BE COLLECTED, INCLUDING BUT NOT LIMITED TO CESSATION OR REMOVAL OF OTHER CITY OF ALCOA UTILITY SERVICES TO ENFORCE PAYMENT OF STORMWATER UTILITY FEES

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, construct and operate a system of stormwater management and flood control facilities, and to “fix and require payment of fees for the privilege of discharging stormwater;”

WHEREAS, Tennessee Code Annotated, § 68-221-1105 provides that among other powers municipalities have with respect to stormwater facilities is the power by ordinance or resolution to:

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

WHEREAS, the City of Alcoa has applied for, obtained, and shall comply with the National Pollutant Discharge Elimination System (NPDES) Phase II permit for discharges of stormwater runoff into the waters of the State of Tennessee;

WHEREAS, the Board of Commissioners of City of Alcoa finds and concludes from in-house engineering and financial analyses, with guidance and input from a Commission-appointed citizen advisory committee, that substantial stormwater management problems and funding needs exist;

WHEREAS, the Board of Commissioners of the City of Alcoa finds and concludes from the professional engineering and financial analyses that adequate, stable, and dedicated funding will be essential if the City is to meet its future stormwater management program operational, regulatory, and capital improvement needs;

WHEREAS, it is the desire of the Board of Commissioners of the City of Alcoa to proceed with the establishment, development, implementation, and operation of a utility dedicated specifically and solely to stormwater management, which shall be accounted for in the City budget as a separate enterprise accounting unit of the Department of Public Works & Engineering; and

WHEREAS, it is the desire of the Board of Commissioners of the City of Alcoa to proceed with the establishment of funding methods appropriate to the stormwater management utility program.

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF ALCOA, THAT TITLE 18, is hereby amended as follows:

SECTION 1. That Title 18 of the Alcoa Municipal Code entitled, "Water, Sanitary Sewers and Storm Sewers," be amended by adding Chapter 8, entitled "Rules, Rates, and Fees for the Stormwater Utility" and that said chapter shall read as follows:

Chapter 8
RULES, RATES, AND FEES FOR
THE STORMWATER UTILITY

Section

- 18-801. Rules, Rates, and Charges Adopted
- 18-802. Findings
- 18-803. Definitions
- 18-804. Creation of Stormwater Utility
- 18-805. Scope of Responsibility for the City Drainage System
- 18-806. Funding of Stormwater Utility
- 18-807. Stormwater Fund
- 18-808. Operating Budget
- 18-809. Determination and Modification of Stormwater Utility Fees
- 18-810. Effective Date of Stormwater Utility Fees
- 18-811. Alcoa Stormwater Utility Manual
- 18-812. Stormwater Utility Fee Rates
- 18-813. Exemptions and Credits Applicable to Stormwater Fees
- 18-814. Stormwater Utility Fee Billing, Delinquencies, and Collections
- 18-815. Application of Utility Fees Billed in Common
- 18-816. Removal or Cessation of Utility Services
- 18-817. Alcoa Stormwater Board of Appeals

18-801. Rules, Rates, and Charges Adopted. Pursuant to authority granted by sections 68-221-1101 through 68-221-1116 of the Tennessee Code Annotated and for the purpose of

providing stormwater management operations and establishing a stormwater utility within the City of Alcoa, the “Alcoa Stormwater Utility Manual - Rules, Rates, Fees and Credits,” is hereby adopted and incorporated by reference as part of this code.

18-802. Findings. The Board of Commissioners of the City of Alcoa (hereinafter referred to as the City) makes the following additional findings and conclusions

- a. Stormwater systems which provide for the collection, treatment, storage and disposal of stormwater, provide benefits and services to all property within the incorporated city limits. Such benefits include, but are not limited to:
 1. The provision of adequate systems of collection, conveyance, detention, treatment and release of stormwater.
 2. The reduction of hazards to property and life resulting from stormwater runoff.
 3. Improvements in general health and welfare through reduction of undesirable stormwater conditions.
 4. Improvements to the water quality in the stormwater and surface water system and its receiving waters.
- b. An equitable approach to funding stormwater management services and facilities can be provided by adopting a schedule of service fees upon properties that is related to burden of stormwater quantity and quality control service requirements and costs posed by properties throughout the City.
- c. A utility fee credit is an appropriate means of adjusting fees in recognition that private stormwater systems and/or actions can effectively reduce or eliminate the burden of stormwater quantity and quality control service requirements and costs that a property or properties pose for the City. In addition, the value to the stormwater utility of certain actions and practices performed by property owners and other stormwater utility customers may be recognized by credits based on other factors, including but not limited to the avoided cost of public information and education realized by the utility when public information and education about stormwater management is provided by the public school system.
- d. Impervious area is the most important factor influencing stormwater service requirements and costs posed by properties throughout the City, and therefore is an appropriate parameter for calculating stormwater utility fees and associated credits.

18-803. Definitions. As used in this Chapter, unless the context clearly indicates otherwise, the following definitions apply:

- a. Credit shall mean a conditional reduction in the amount of a stormwater utility fee to a qualifying individual property based on the provision and continuing presence of an effectively maintained and operational on-site stormwater system or facility or the provision of a service or activity by the property owner, which system, facility, service, or activity reduces the stormwater utility’s cost of providing stormwater services and facilities. Credits for on-site stormwater systems shall be generally proportional to the positive affect that such systems have on the peak rate of runoff and/or improved water quality from the individual property. Credits shall be defined and implemented in a Stormwater Utility Manual, which shall be adopted and amended from time to time, as necessary, by resolution of the Alcoa Board of

Commissioners, and shall be maintained and published in such form and manner as directed by the Alcoa City Manager or his designee.

- b. Customers of the stormwater utility shall include all persons, properties, and entities served by and/or benefiting from the utility's acquisition, management, maintenance, extension, and improvement of the stormwater management programs, systems, and facilities and regulation of public and private stormwater systems, facilities, and activities related thereto, and persons, properties, and entities which will ultimately be served or benefited as a result of the stormwater management program as determined by applicable law.
- c. Detached dwelling unit shall mean developed land containing one structure which is not attached to another dwelling and which contains one or more rooms with a bathroom and kitchen facilities designed for occupancy by one family. Detached dwelling units may include houses, manufactured homes, and mobile homes located on one or more individual lots or parcels of land. "Developed land" shall be classified as a detached dwelling unit despite the presence of incidental structures associated with residential uses such as garages, carports, or small storage buildings. Detached dwelling unit can also include developed land that has a non-residential use of a dwelling unit designed for occupancy for one family so long as such use does not result in additional impervious areas, such as parking spaces, impervious surfaced playgrounds, or structures or additions to the building which are used as offices, storage facilities, meeting rooms, classrooms, houses of worship, or similar non-residential uses. Detached dwelling unit shall not include developed land containing: manufactured homes and mobile homes located within manufactured home or mobile home parks where the land is owned by others than the owners of the manufactured homes or mobile homes; or multiple-unit residential properties.
- d. Developed land shall mean property altered from a natural state by construction or installation of more than five hundred (500) square feet of impervious surfaces as defined in this Chapter.
- e. Equivalent residential unit (ERU) of impervious area shall mean the median impervious coverage of detached dwelling unit properties in the City of Alcoa as determined by the City, and shall be used as the basis for determining stormwater utility fees to detached dwelling unit properties or classes of detached dwelling unit properties and other developed land.
- f. Flood control facilities shall mean all natural and manmade conveyances and structures for which the partial or full purpose or use is to convey surface flood runoff water within the jurisdictional boundaries of the City of Alcoa. This includes all natural conveyances for which the City has assumed a level of maintenance responsibility, or has made improvements to prevent flooding in order to satisfy the City's responsibility or obligation to protect public and private property, or for to which the City has made improvements, against the flooding of which the City must make provision to protect public and private property, or for which the City is accountable under Federal or State regulations for protecting the water quality within its jurisdictional boundaries.
- g. Impervious surfaces shall mean 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, compacted gravel and soil surfaces, awnings and other fabric or plastic coverings.

- h. Multiple dwelling unit residential properties shall mean other developed land whereon two or more attached residential dwelling units are located and shall include, but not be limited to, apartment houses, condominiums, town homes, attached single-family homes, duplexes, triplexes, boarding houses, group homes, hotels and motels, retirement centers, and other structures in which two or more family groups commonly and normally reside or could reside. In the application of stormwater utility fees, multiple dwelling unit properties shall generally be treated as other developed lands. However, multiple dwelling unit residential properties where individual residential dwelling units are owned or occupied independently, such as residential condominiums or apartments, may be treated as detached dwelling unit properties in the application of stormwater utility fee rates.
- i. Other developed land shall mean, but shall not necessarily be limited to, manufactured home and mobile home parks, commercial and office buildings, public buildings and structures, industrial and manufacturing buildings, storage buildings and storage areas covered with impervious surfaces, parking lots, parks, recreation properties, public and private schools and universities, research stations, hospitals and convalescent centers, airports, agricultural uses covered by impervious surfaces, water reservoirs, and water and wastewater treatment plants.
- j. Public Airport shall mean any airport that is used or to be used for public purposes, under the control of a public agency, the landing area of which is publicly owned (Section 47102(16) of Title 49 of the United States Code).
- k. Stormwater shall mean stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration (other than infiltration contaminated by seepage from sanitary sewers or by other discharges) and general drainage related to a precipitation event.
- l. Stormwater Utility Fee shall mean the stormwater management fee and/or charges applicable to a parcel of developed land, which fee/charges shall be reflective of the City of Alcoa stormwater utility's cost of providing stormwater management services and facilities. Stormwater utility fee may also be termed "stormwater utility service charge."
- m. Stormwater management facilities shall mean those natural and man-made drainage structures, conveyances, conduits, combined sewers, sewers, and all device appurtenances by means of which storm water is collected, transported, pumped, treated and/or disposed of.
- n. Undeveloped Land. Land in its unaltered state or which has been modified to such minimal degree as to have a hydrologic response comparable to land in an unaltered natural state shall be deemed undeveloped. Undeveloped land shall have no pavement, asphalt, or compacted gravel surfaces or structures which create an impervious surface that would prevent infiltration of storm water or cause storm water to collect, concentrate, or flow in manner materially different than that which would occur if the land was in an unaltered natural state. For purposes of this Ordinance,

undeveloped land shall also include property-altered from its natural state by the creation or installation of less than five hundred (500) square feet of impervious surfaces.

18-804. Creation of Stormwater Utility. A stormwater utility is created which shall consist of staff as designated by the City Manager for the operation and maintenance of the City's stormwater / drainage system.

The stormwater utility shall:

- a. Administer the acquisition, design, construction, maintenance and/or operation of the stormwater utility system, including capital improvements as may be designated in the capital improvement program;
- b. Administer and enforce this ordinance and all regulations and procedures adopted relating to the design, construction, maintenance, operation and alteration of the utility stormwater system, including, but not limited to, the quantity, quality and/or velocity of the stormwater conveyed thereby;
- c. Advise the municipality's governing body and other city departments on matters relating to the utility;
- d. Review and approve or deny plans; inspect and accept extensions and connections to the system; and require submission of as-built plans of completed drainage improvements;
- e. Enforce regulations to protect and maintain water quality and quantity within the system in compliance with water quality standards established by local, state, regional and/or federal agencies as now adopted or hereafter amended;
- f. Analyze the cost of services and benefits provided, and the system and structure of fees, charges, civil penalties and other revenues of the utility.

18-805. Scope of Responsibility for the City Drainage System. The City drainage system consists of all rivers, creeks, branches, lakes, reservoirs, ponds, drainage ways, channels, ditches, swales, storm sewers, culverts, inlets, catch basins, pipes, head walls and other structures, natural or manmade, within the political boundaries of the City of Alcoa which:

- a. Are located within publicly dedicated streets, rights-of-way, and easements;
- b. Are subject to publicly dedicated easements, easements-by-use, rights-of-entry, rights-of-access, rights-of-use, or other permanent provisions of adequate access of operation, maintenance, and/or improvement of systems and facilities; or
- c. Are located on public lands to which the City has adequate access for operations, maintenance, and/or improvement of systems and facilities.

Operation and maintenance of stormwater systems and facilities which are located on private property or public property not owned by the City of Alcoa and for which there has been no public dedication of such system and facilities to the City of Alcoa for operation and maintenance, and/or improvements or the system and facilities shall be and remain the legal

responsibility of the property owner, or its occupant, except as that responsibility may be otherwise affected by the laws of the State of Tennessee and the United States of America.

18-806. Funding of Stormwater Utility. Funding of the stormwater utility's activities may include, but not necessarily limited to, the following:

- a. Stormwater utility fees.
- b. Civil penalties and damage assessments imposed for or arising from the violation of the City's stormwater management ordinance(s), regulations, etc. as may be adopted and amended from time to time.
- c. Stormwater permit and inspection fees.
- d. Other funds or revenue obtained from federal, state, local, and private grants, or revolving funds, and from revenue derived from the issuance of debt obligations of the City or the Stormwater Utility pursuant to the Local Government Public Obligations Act of 1986 (Tennessee Code Annotated, title 9, chapter 21, as amended, or any other lawful source of revenue).

To the extent that the stormwater drainage fees collected are insufficient to construct, operate, and maintain needed stormwater drainage facilities and to comply with the requirements of this and other related ordinances, regulations, etc., the cost of the same may be paid from such city funds as may be approved by the Alcoa Board of Commissioners.

18-807. Stormwater Fund. All revenues generated by or on behalf of the stormwater utility shall be deposited in a stormwater utility fund and used exclusively by the City for the stormwater utility.

18-808. Operating Budget. The Alcoa Board of Commissioners shall adopt an operating budget for the stormwater utility each fiscal year. The operating budget shall set forth for such fiscal year the estimated revenues and the estimated costs for operations and maintenance, extension and replacement and debt service.

18-809. Determinations and Modification of Stormwater Utility Fees. Stormwater utility fees may be adopted and modified by resolution from time to time by the Board of Commissioners of the City of Alcoa so that the total revenue generated by said charges, in addition to all other revenue of the Stormwater utility, will be sufficient and any other sources of revenue that may be made available to the stormwater utility will be sufficient to meet the cost of services and facilities, including but not limited to:

- a. The payment of principal and interest on debt obligations of the stormwater utility.
- b. Other expenses reasonably necessary or convenient in the acquisition, construction, operation, maintenance, and regulation of the stormwater system and of properties affecting the stormwater system.

Graduated stormwater utility fees shall be based on actual or estimated use of the storm water and/or flood control facilities of the municipality and stormwater utility. Each user or user class shall be required to pay its proportionate share of the construction, administration, operation and maintenance, including replacement costs, of such facilities based on the user's actual or

estimated proportionate contribution to the total storm water runoff from all users or user classes.

To ensure a proportionate distribution of all costs to each user or user class, the user's contribution shall be based on factors such as, but not necessarily limited to, the amount of impervious area utilized by the user, the water quality of user's storm water runoff, the volume, rate and/or velocity of storm water runoff.

The use of any particular characteristic as a utility fee rate parameter shall not preclude the use of other parameters, or of grouping of properties having similar characteristics through the use of ranges or rounding up or down to a consistent numerical interval, or the use of flat-rate charges for one or more classes of similarly-situated properties whose impact on the stormwater utility's cost of providing stormwater management services and facilities are relatively consistent. Stormwater utility fees may also include special charges to individual customers for services or facilities related to stormwater management, including but not limited to fees for plan review of development, inspection of development projects and on-site stormwater control systems, and enhanced levels of stormwater services above those normally provided by the City. The purpose of classifications of properties through this process shall be to establish and maintain fees, rates, and charges which are based upon objective characteristics of the affected properties, and are levied and applied throughout the stormwater utility so as to assess properties in a manner consistent with other similarly situated properties.

18-810. Effective Date of Stormwater Utility Fees. Stormwater utility fees shall accrue beginning with the adoption of and as indicated in the first schedule of fees by the Board of Commissioners of the City of Alcoa and shall be billed periodically thereafter to customers except as specific exemptions and adjustments may apply. Fees shall be due, delinquent charges applied, and/or utility service terminated as specified in said fee schedule or as otherwise specified by applicable City ordinances and/or regulations.

18-811. Alcoa Stormwater Utility Manual. The City Manager or his designee shall prepare an Alcoa Stormwater Utility Manual containing the Equivalent Residential Unit schedule (ERU), Utility Fee Credits criteria and a separate Rate Schedule for approval by the Board of Commissioners. Said manual and rates shall be subject to review and adoption by resolution of the Board of Commissioners and may be revised, amended or otherwise changed from time to time by resolution. Copies of said manuals and rates shall be available at the office of the Alcoa City Recorder.

18-812. Stormwater Utility Fee Rates. In order to fully recover the cost of providing stormwater services and facilities while fairly and reasonably apportioning the cost among developed properties throughout the City, the following stormwater rates shall apply.

- a. Detached dwelling units. Detached dwelling units shall be charged based upon one (1) equivalent residential unit (ERU), or multiplied thereof, as specified in the Alcoa Stormwater Utility Manual.
- b. Other developed lands. All developed lands not classified as detached dwelling units shall be billed for one (1) ERU, or multiplier thereof, as specified in the Alcoa Stormwater Utility Manual.
- c. Multiple dwelling unit residential properties. Multiple dwelling unit residential properties where individual residential units are owned or occupied independently,

such as residential condominiums or apartments, may be treated as detached dwelling unit properties in the application of the stormwater utility fee.

- d. Exempt properties. There shall be no utility fee for exempt property.

18-813. Exemptions and Credits Applicable to Stormwater Utility Fees. Except as provided in this Section, no public or private property shall be exempt from stormwater utility fees or receive a credit or offset against such service charges. No exemption, credit, offset, or other reduction in stormwater utility fees shall be granted based on the age, tax, or economic status, race, or religion of the customer, or other condition unrelated to the stormwater utility's cost of providing stormwater services and facilities.

- a. The following exemptions from stormwater utility fees shall be allowed:

1. Undeveloped land (less than five hundred (500) square feet of impervious area) as defined in this Chapter shall be exempt from stormwater utility fees;
2. Railroad tracks shall be exempt from stormwater utility fees. However, railroad stations, maintenance buildings, or other developed land used for railroad purposes shall not be exempt from stormwater utility fees.

3. Improved public road rights-of-way that have been conveyed to and accepted for maintenance by the City of Alcoa, any State and / or Federal governments, or any political subdivision thereof and are available for use in common for vehicular transportation by the general public.

4. Agricultural property - Any farming practice having a total impervious area of less than ten (10) percent.
5. Public Parks, greenways, and other public recreational facilities having a total impervious area of less than fifty (50) percent.
6. Developed property having stormwater that discharge into a zero-discharge pond, sinkhole or impounded reservoir of the Tennessee Valley authority without traveling through, over, or benefiting from any portion of the City's stormwater system.

7. Public Airport runways and taxiways shall be exempt from stormwater utility fees. However, terminals, maintenance buildings, service roads or other developed land used for airport purposes shall not be exempt from stormwater utility fees.

- b. Stormwater Utility Fee Credits shall be allowed for the following activities/occurrences when initiated at the discretion of the City of Alcoa and in accordance with the Alcoa Stormwater Utility Manual as described in Section 18-811 or as may be specified in duly adopted fee schedules:

1. Other developed lands that have, and maintain in proper working order, on-site stormwater detention and retention systems that reduce the peak rate of stormwater discharge. Certification and maintenance criteria shall be set forth in the Alcoa Stormwater Utility Manual.

2. Public and private schools and school systems located in the City of Alcoa that teach approved stormwater conservation curricula. This credit will be allowed when that portion of the City's NPDES Phase II permitted education program is in place.
 3. Other developed lands that have, and maintain in proper working order, on-site stormwater best management practices that reduce the impact of stormwater runoff on water quality in accordance with water quality standards set forth in the Alcoa Stormwater Utility Manual.
 4. Other developed lands that have, and maintain, a Tennessee Multi-Sector General Permit for industrial activities.
 5. [Other developed lands that have, and maintain, a National Pollutant Discharge Elimination System Industrial Stormwater Discharges Associated with Industrial Activity Permit.](#)
 6. [Other developed lands that have a direct stormwater discharge that is generated on the property immediately adjacent to a stream and flows directly to the waterbody in accordance with criteria set forth in the Alcoa Stormwater Utility Manual.](#)
- c. The Alcoa Stormwater Utility Manual shall specify the design and performance standards of on-site systems, facilities, activities, and services which qualify for application of a fee credit, and how such credits shall be calculated.
 - d. The stormwater utility fee credit shall be determined based on the technical requirements and standards contained in the Alcoa Stormwater Utility Manual. The stormwater utility fee credit shall be proportional to the extent that on-site systems, facilities, services, and activities provided, operated, and maintained by the property owner reduce or mitigate the stormwater utility's cost of providing services and facilities.
 - e. Groups of detached dwelling units represented by a homeowner's association providing on-site systems or facilities that reduce or mitigate the stormwater utility's cost of providing stormwater management services and facilities may receive a stormwater utility fee credit. The stormwater utility fee credit shall be determined based on the technical requirements and standards contained in the Alcoa Stormwater Utility Manual. The stormwater utility fee credit available to groups of detached dwelling units shall be proportional to the extent that on-site systems and facilities provided, operated, and maintained by the homeowners association reduce or mitigate the stormwater utility's cost of providing services and facilities.
 - f. Any credit allowed against the stormwater utility fee is conditioned on continuing compliance with the City's design and performance standards as stated in Alcoa Stormwater Utility Manual and/or upon continuing provision of the systems, facilities, services, and activities provided, operated, and maintained by the property owner or owners upon which the credit is based. A credit may be revoked by the city at any time for non-compliance. A thirty (30) days notice of a non-complying condition and

intent to revoke a stormwater utility fee credit shall be provided to the stormwater utility customer receiving a credit before the credit is revoked thereby allowing the customer the opportunity to attain compliance.

18-814. Stormwater Utility Fee Billing, Delinquencies, and Collections. A stormwater utility fee bill may be sent through the United States mail or by alternative means, notifying all customers of the amount of the bill, the date the payment is due, and the date when past due. Failure to receive a bill is not justification for non-payment. Regardless of the status of the party to whom the bill is initially directed, the owner of each parcel of developed land shall be ultimately obligated to pay the stormwater utility fee. If a customer is under billed or if no bill is sent for developed land, the City may backbill for a period of up to the maximum allowed by State statute, but in such cases shall not assess penalties for any delinquency. A late charge will be based upon the unpaid balance in accordance with the applicable utility service policies of the City of Alcoa.

18-815. Application of Utility Fees Billed in Common. The stormwater utility fee shall be billed and collected along with other city utility services. Any payment of utility fees billed in common shall be applied to the customer's bill as established through the prevailing policies and ordinances of the City of Alcoa.

18-816. Removal or Cessation of Utility Services. The City of Alcoa may remove or cease to provide any utility service(s) as it determines necessary to enforce the payment of any/all City utility fees including the stormwater utility fee.

18-817. Alcoa Stormwater Board of Appeals.

18-817.01 Creation. An Alcoa Stormwater Board of Appeals (ASBA) is hereby established, consisting of three (3) members to hear appeals filed by any person(s) appealing a utility fee, civil penalty or damage assessment, or appealing / requesting a variance for other action imposed pursuant to stormwater related ordinances.

The following criteria shall pertain to the ASBA:

- a. The Board of Commissioners shall appoint the members of the ASBA;
- b. All members of the ASBA shall be citizens of the City of Alcoa;
- c. The Board of Commissioners shall select appointees so that the ASBA will consist of individuals with an expertise as follows:
 1. One licensed professional engineer with three (3) years of civil or environmental engineering experience as a professional engineer;
 2. One representative of the development or industrial community;
 3. One member at large;
 4. In addition to the above qualifications one through four, one of the three (3) members must have at least three (3) years civil or environmental engineering experience.
 5. Any member may be actively employed or a retiree.
- d. ASBA members shall serve for a term of three (3) years. An ASBA member shall continue to serve, however, until a successor has been appointed, or until the ASBA member has been reappointed. The terms of the original ASBA members shall be

staggered so that the term of one member shall expire each year. In making the initial appointments to the ASBA, the Commission shall designate the initial term of the appointees so as to provide for staggering the expiration of terms of the appointees.

- e. An appointment to succeed a ASBA member who is unable to serve said member's full term shall be for the remainder of said member's term.
- f. ASBA members may be reappointed, but shall not succeed themselves without appointment as provided above.
- g. ASBA members shall serve without compensation.
- h. No ASBA member shall participate in the appeal of any matter in which the member has a direct personal or financial interest.

18-817.02 Organizations. When said Board has been duly appointed, they shall take an oath as prescribed by the Charter of the City of Alcoa, applicable to all other officials of said City.

- a. Said Alcoa Stormwater Board of Appeals shall annually elect one of its members to serve as chair and another member to serve as vice-chair through a majority vote of all members. The terms of the Chair and vice-chair shall be one year with eligibility for re-election. (Ord. No. 338, Sec. 17 (B))
- b. The ASBA shall keep complete and accurate records of the proceedings of all their meetings. The City Manager or his designee shall designate a person to serve as secretary to the ASBA.

18-817.03 Procedure. Meetings of the Alcoa Stormwater Board of Appeals shall be held at the call of the Chair, and at such other times as the Board may determine. Such Chair, or, in his absence, the acting Vice-Chair, may administer oaths and compel the attendance of witnesses.

- a. Two (2) members of said Board shall constitute a quorum for the transaction of business, and shall be necessary for the adoption of any resolution or the passage of any motion.
- b. All meetings of the Board shall be open to the public.
- c. The Board shall adopt rules of procedure and shall keep records of appeals and action thereon, and its reasons for the decision, which shall be a public record. (Ord. No. 338, Sec 17 (C)).

18-817.04 Appeals. Any person requesting a variance, aggrieved by the imposition of a civil penalty, damage assessment or enforcement of any provision as provided in any stormwater ordinances may appeal said penalty or damage assessment to the Alcoa Stormwater Board of Appeals (ASBA).

- a. The notice of appeal shall be in writing on a form provided and filed with the Public Work & Engineering Department within thirty (30) days after the contested action, assessment, penalty, etc. is served in any manner authorized by law.
- b. The Director of Public Works and Engineering or his designee shall transmit to the Alcoa Stormwater Board of Appeals the notice of appeal and support documentation constituting the record upon which the action appealed was taken. Upon the hearing any person or party may appear in person or by agent or by attorney. (Ord. No. 338, Sec. 17 (D))
- c. Upon receipt of an appeal, the ASBA shall hold a public hearing within sixty (60) days, or a later date mutually agreed upon by the parties. Ten (10) days prior notice of the time, date, and location of said hearing shall be published in a local daily paper of general circulation. Ten (10) days notice shall be provided to the aggrieved party at the address provided at the time of appeal.
- d. Any alleged violator may appeal a decision of the ASBA pursuant to the provisions of title 27, chapter 8 of Tennessee Code Annotated.
- e. If a petition for review of such action, assessment, penalty, etc. is not filed within thirty (30) days after the action, assessment, penalty, etc. is served in any manner authorized by law, the violator shall be deemed to have consented to the damage assessment or civil penalty, and it shall become final.

18-817.05 Powers. The Alcoa Stormwater Board of Appeals shall have the following powers:

- a. Administrative review. To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, determination or refusal made by Public Works & Engineering or other administrative official in the carrying out or enforcement of any provision of any stormwater related ordinance.
- b. Variance. To hear and decide appeals for variance from the terms of a stormwater related ordinance, by reason of extraordinary or exceptional situation or condition of a piece of property, whereby the strict application of the provisions of any stormwater related ordinance would result in impractical difficulties to or undue hardship upon the owner of such property, provided that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any stormwater related ordinance. In granting a variance the ASBA may attach thereto such conditions regarding the location, character and other related stormwater features use, as it may seem advisable in furtherance of the purpose of this ordinance. (Ord. No. 338, Sec. 17 (E))
- c. Subpoenas. The ASBA may issue subpoenas requiring attendance of witnesses and production of such evidence as requested, administer oaths, and take testimony, as the board deems necessary to fulfill its purpose.

18-817.06 Stormwater Utility Fee Appeals. Any stormwater utility customer who believes the provisions of this Article have been applied in error may appeal in the following manner:

- a. An appeal must be filed in writing with the City of Alcoa Department of Public Works & Engineering. In the case of utility fee appeals, the appealing customer may provide either of the following:
 - 1. If aerial photography or other mapping is available that may be used to accurately depict the subject property's existing conditions, the appellant may utilize such mapping to demonstrate the total impervious area and the relationship of the same to the prevailing schedule of stormwater fees.
 - 2. A plan of the property prepared by a registered land surveyor or professional engineer containing information on the total property area, the impervious surface area, and any other features or conditions which influence the hydrologic response of the property to rainfall events
 - 3. The appellant may submit any other relevant evidence available to support their appeal.
- b. Using the information provided by the appellant, the City Manager or his designee shall conduct a technical review of the conditions on the property and respond to the appeal in writing within sixty (60) days. If no response is prepared within sixty (60) days of the date of the receipt of the appeal or a written extension, the appeal will be considered approved.
- c. In response to an appeal the City Manager or his designee may adjust the stormwater utility fee applicable to a property in conformance with the general purpose and intent of the Article.
- d. A decision of the City Manager or his designee, which is adverse to an appellant, may be further appealed to the Alcoa Stormwater Board of Appeals (ASBA) within sixty (60) days of the adverse decision. Notice of the appeal shall be delivered to the secretary of the ASBA by the appellant, stating the grounds for further appeal. .
- e. The appeals process contained in this Section shall not prevent an appellant from seeking relief in the approved manner and form from a court of competent jurisdiction.

SECTION 2. That a public hearing is hereby set for the 12th day of February, 2008.

SECTION 3. This Ordinance shall be effective from and after its final passage, the public welfare requiring it.

/s/ Donald R. Mull
Mayor

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

ATTEST:

/s/ Ray E. Richesin
Recorder

