

TITLE 19

STORMWATER

CHAPTER

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CHAPTER 1

LAND DEVELOPMENT AND PUBLIC WORKS STANDARDS¹

SECTION

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19-101. Adoption of standards. The rules and regulations of the City of Maryville entitled "Maryville Land Development and Public Works Standards," which have heretofore been enacted and is a public record of the municipality, be and the same is hereby adopted by reference as authorized under *Tennessee Code Annotated*, §§ 6-54-501, *et seq.* (1999 Code, § 19-101)

19-102. Available in recorder's office. At least one (1) copy of said public record shall be filed in the office of the Recorder of the City of Maryville and be kept therein available for public use, inspection, and examination.

The council of the City of Maryville hereby declares that pursuant to *Tennessee Code Annotated*, § 6-54-502, one (1) copy of said rules and regulations has been placed on file in the City of Maryville Recorder's Office for a period of fifteen (15) days prior to the passage of this chapter. (1999 Code, § 19-102)

19-103. Violations and penalty. These standards are enforceable in a court of equity through injunction or any other equitable means. Any person, firm, corporation, or agent violating or failing to comply with any provision or requirement of these standards shall be guilty of a civil offense. Additionally,

¹See Ord. #88-1, and any amendments thereto, of record in the recorder's office, for The Land Development Regulations of Maryville, Tennessee.

such violation further constitutes a violation of a city ordinance punishable in city court with a fine of up to fifty (\$50.00) per day for violation. Enforcement powers of the city shall be to the maximum extent permitted by law. Pursuit of one (1) means of enforcement by the city as provided herein will not prevent pursuit of other additional means of enforcement of the provisions of this chapter. (1999 Code, § 19-103, modified)

CHAPTER 2

GRADING, SOIL EROSION AND SEDIMENTATION CONTROL

SECTION

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19-201. Purpose. The City of Maryville has in the past experienced development causing the displacement of large quantities of earth. Soil erosion and sediment deposition can result from such development. Sediment is one (1) cause of the contamination of water supplies and water resources, and is 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. Therefore, the purpose of this chapter is to provide regulations within the City of Maryville to accomplish the following:

- (1) To safeguard the health, safety, and general welfare of the citizens;
- (2) To preserve the value of land throughout the city;
- (3) To establish reasonable and accepted standards of design and procedures for development that prevent sediment damage;

- (4) To prevent the pollution of streams, ponds and other watercourses by erosion and sediment deposition;
 - (5) To minimize property damage by means of flooding;
 - (6) To preserve the natural beauty and aesthetics of the community;
- and
- (7) To enable the City of Maryville to comply with the NPDES general permit for discharges from small municipal separate storm sewer systems, TMDLs and other applicable state and federal regulations. (1999 Code, § 19-301)

19-202. Rules applying to chapter. For the purpose of this chapter, certain rules of construction shall apply herein as follows:

- (1) Words used in the present tense shall include the future tense and the singular includes the plural, unless otherwise indicated in the text.
- (2) The term "shall" or "must" is always mandatory and not discretionary. The words "may" and "should" are permissive in nature.
- (3) Except as herein provided, all words used in this chapter shall have their common dictionary definition. (1999 Code, § 19-302)

19-203. Definitions. (1) "Applicant." Person submitting the application for a grading permit. Typically, this is the owner or operator of the land-disturbing activity.

(2) "Clearing." The removal of vegetation and disturbance of soil prior to grading or excavation in anticipation of construction activities. "Clearing" may also refer to wide area land disturbance in anticipation of non-construction activities; for instance, clearing forested land in order to convert forest land to pasture for wildlife management purposes. In the definition of discharges associated with construction activity, clearing, grading, and excavation do not refer to the clearing of vegetation along existing or new roadways, highways, dams, or power lines for sight distance or other maintenance and/or safety concerns, or cold planning, milling, and/or removal of concrete and/or bituminous asphalt roadway pavement surfaces.

(3) "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 sanitary waste at the construction site.

(4) "Cut and fill slopes." Sloped areas constructed by excavating or adding soil, rock or other materials.

(5) "Development." 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.

(6) "Erosion." The wearing away of land by action of wind, water, ice, or gravity.

(7) "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 EPSC plan mirrors the SWPPP and shall be reviewed and approved before a grading permit may be issued. The plan may be included as part of a site plan required under another city ordinance or a separate plan following the specifications set out in this chapter.

(8) "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 human-made, is removed, or any building or other structures are removed or any watercourse or body of water, either natural or human-made, is relocated on any site, thereby creating an unprotected area. "Grading" shall be synonymous with "land-disturbing activity."

(9) "Grading permit." A permit issued to authorize excavation and/or fill to be performed under the guidelines of this chapter.

(10) "Grading policy manual." The document entitled *Grading and Construction Site Pollution Management Policies and Procedures Manual*. A document prepared and maintained by the City of Maryville which contains policies, procedures, technical criteria and guidelines and other supporting documentation or tools for implementation of the provisions of this chapter.

(11) "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, redevelopment, demolition, construction, reconstruction, clearing, grading, filling, logging and/or tree chipping operations, haul roads associated with the development, and excavation.

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

(13) "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) This person has 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) This person has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a site plan, EPSC plan 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.

(14) "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.

(15) "Priority construction activity." Any land-disturbing activity that is one (1) acre or greater that discharges into, or immediately upstream of,

waters the State of Tennessee recognizes as impaired for siltation or habitat alterations, or are recognized by the State of Tennessee as Exceptional Tennessee Waters. Also, priority construction activities can include land-disturbing activities of any size that, in the judgment of the director of engineering and public works, 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.

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

(17) "Redevelopment." The improvement of a lot or lots that have been previously developed.

(18) "Sketch plan." An erosion prevention and sediment control plan required for land-disturbing activities that are greater than one-tenth (1/10) acre and less than one (1) acre.

(19) "Soil stabilization." Measures which protect soil from erosion.

(20) "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.

(21) "Variance." A grant of relief from the requirements of this chapter that permit construction or activities in a manner otherwise prohibited by this chapter, where specified enforcement would result in unnecessary hardship. (1999 Code, § 19-303)

19-204. Authority. (1) The director of engineering and public works, or his/her designee, has the authority to promulgate rules, regulations, policies and guidance consistent with this chapter in order to carry out the meaning and intent in a *Grading and Construction Site Pollution Management Policies and Procedures Manual* (henceforth referred to as the "grading policy manual"). The policies, criteria and requirements stated in the grading policy manual shall be enforceable, consistent with other provisions of this chapter.

(2) In the event that the director of engineering and public works, or his/her designee, determines that a violation of any provision of this chapter has occurred, or that work does not have a required grading permit, or that work does not comply with an approved plan or grading permit, the director of engineering and public works, 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 construction work performed at a site development, at which time the penalty provisions of this chapter shall be implemented. (1999 Code, § 19-304)

19-205. Existing eroding areas. Upon written notification from the director of engineering and public works, or his/her designee, the owner or operator of a parcel of land which exhibits unstable or eroding soil conditions

shall correct the problem within the time specified in the written notice. This period may be extended upon request if conditions warrant. Minimum correction measures shall include soil stabilization and revegetation of all exposed soil surfaces and otherwise engaging in vegetative erosion prevention and sediment control practices. Before commencing corrective measures, the owner or operator shall consult with the director of engineering and public works, or his/her designee, to determine an acceptable method of correction. (1999 Code, § 19-305)

19-205. Grading permit required. 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 Maryville without meeting the requirements of this chapter, unless exempted under § 19-707.

(1) The owner or operator of the following land-disturbing activities must obtain a grading permit prior to commencing land-disturbing activities, unless exempted from this requirement under § 19-207:

(a) Any new development or redevelopment that will result in land-disturbing activity that is greater than one-tenth (1/10) of an acre.

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

(2) Owners or operators of land-disturbing activities are responsible for obtaining all applicable state and federal permits or approvals prior to requesting a grading permit from the City of Maryville.

(3) Land-disturbing activities not exempted under § 18-707 shall require:

(a) Grading permit application;

(b) Five (5) copies of an EPSC plan (required for land-disturbing activities equal to or greater than one (1) acre, including those activities less than one (1) acre that are part of a larger plan of development or sale), or one (1) copy of a sketch plan (required for land-disturbing activities less than one (1) acre), prepared in conformance with this chapter;

(c) Appropriate fee, if applicable;

(d) Review of the EPSC plan or sketch plan by the director of engineering and public works, or his/her designee, for compliance with City of Maryville regulations and policies;

(e) Grading permit;

(f) Site inspection, performed in accordance with this chapter;
and

(g) Ongoing and final inspection.

(4) The director of engineering and public works, or his/her designee, may require land-disturbing activities that are less than one (1) acre to develop a full EPSC plan, as set forth in this chapter and the grading policy manual, as deemed necessary to protect streams and adjacent properties from erosion and off-site sediment deposition.

(5) Land-disturbing activities not exempted under § 18-707 of this chapter shall not commence until:

(a) The owner or operator obtains 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 with the EPSC plan or sketch plan.

(b) The owner or operator obtains all applicable permits for the applicable development or redevelopment from state and federal agencies. A copy of the permit(s) obtained must be submitted with the EPSC plan or sketch plan. (1999 Code, § 19-306)

19-207. 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 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, sediment deposition and runoff. The director of engineering and public works, or his/her designee, may require owners or operators of exempt activities to obtain a grading permit as deemed necessary to protect adjacent properties or streams from erosion and off-site sediment deposition.

Grading permits are not required for the following land-disturbing activities:

(1) Installation, maintenance and repair of any underground public utility line when such activity has a land-disturbance less than one (1) acre, occurs on an existing right-of-way, and a cut or excavation permit has been obtained, except within fifty feet (50') of waters of the state, in which event a grading permit is required.

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

(3) 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.

(4) Minor residential and land-disturbing activities such as home gardens and individual home repairs, landscaping, or maintenance work. (1999 Code, § 19-307)

19-208. Application and plan review process. (1) No grading permit shall be issued until an EPSC or sketch plan (if required) has been approved by the director of engineering and public works, or his/her designee.

(2) The EPSC plan shall comply with the requirements set forth in State of Tennessee general NPDES permit for discharges of stormwater associated with construction activities, this chapter and in the grading policy manual. The director of engineering and public works, or his/her designee, may require additional information if deemed necessary prior to reviewing a plan. (1999 Code, § 19-308)

19-209. EPSC and sketch plan required components. (1) EPSC plans submitted to the director of engineering and public works, or his/her designee, shall be prepared in accordance with the Tennessee construction general permit.

(2) EPSC plans submitted to the director of engineering and public works, or his/her designee, shall contain the required components of a SWPPP, as listed in and in accordance with the Tennessee general NPDES permit for discharges of stormwater associated with construction activities, and shall include any additional required elements listed in the grading policy manual and as applicable to the proposed land-disturbing activity.

(3) Sketch plans submitted to the director of engineering and public works, or his/her designee, shall contain the required components, as listed in and in accordance with the grading policy manual and as applicable to the proposed land-disturbing activity.

(4) The director of engineering and public works, or his/her designee, 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.

(5) Omission of any required items shall render the plans incomplete, and they will be returned to the applicant prior to review by the director of engineering and public works, or his/her designee.

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

(7) All EPSC plans shall be prepared and certified by qualified persons as set forth in the Tennessee general NPDES permit for discharges of stormwater associated with construction activities.

(8) 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. If such species are identified in the EPSC plan or by the city, then the EPSC plan shall also include written documentation from the United States Fish and Wildlife Service that indicates:

(a) 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

(b) A finding of no potential impact as a result of the proposed land-disturbing activity. (1999 Code, § 19-309)

19-210. Conformity and amendments to approved plans. (1) The approved EPSC or sketch plan, upon which subsequent permits may be issued by the City of Maryville, 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 of engineering and public works, or his/her designee.

(2) The director of engineering and public works, or his/her designee, 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, off-site sediment deposition or discharges of other construction-related wastes despite the adherence of the owner or operator with approved protective practices.

(3) The owner or operator is required to resubmit an EPSC or sketch plan for approval by the director of engineering and public works, or his/her designee, if site plans or conditions change during land-disturbing activities.

(4) Plan amendments must comply with this chapter and the grading policy manual. (1999 Code, § 19-310)

19-211. Pre-construction inspection and meeting. (1) For all land-disturbing activities greater than one-tenth (1/10) acres, a grading permit shall be issued only after a pre-construction inspection by the director of engineering and public works, or his/her designee, indicates that perimeter erosion prevention and sediment control measures have been installed in accordance with the approved plan.

(2) Attendance at a pre-construction meeting with the director of engineering and public works, or his/her designee, prior to issuance of a grading permit is required for owners and operators of developments or redevelopments that are:

(a) New residential subdivisions;

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

(c) Will discharge stormwater runoff to exceptional Tennessee waters.

(3) Owners and operators of land development activities not listed in subsection (2) of this section 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. (1999 Code, § 19-311)

19-212. Grading permits--time limitations, phasing and conditions. (1) 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 plan must be resubmitted for approval.

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

(3) 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. (1999 Code, § 19-312)

19-213. Documentation kept at the project site. Owners or operators of land-disturbing activities that require an EPSC or sketch plan shall keep the 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 of the State of Tennessee general NPDES permit for discharges of stormwater associated with construction activities, as identified on the Notice of Termination (NOT). Owners or operators with day-to-day operational control over implementation of the EPSC or sketch plan shall have a copy of the plan available at a central location on-site for the use of all operators and those identified as having responsibilities under the plan whenever they are on the site of the land-disturbing activity:

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

(2) Documentation of 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 State of Tennessee general NPDES permit for discharges of stormwater associated with construction activities; or

(3) Any other records required by the Tennessee general NPDES permit for discharges of stormwater associated with constructed activities. (1999 Code, § 19-313)

19-214. Inspections. 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 State of Tennessee NPDES

permit for discharges of stormwater associated with construction activities, this chapter and the *City of Maryville Grading and Construction Pollution Management Policies and Procedures Manual*. (1999 Code, § 19-314)

19-215. Bond requirements. (1) 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 construction with the city shall require a performance bond with the permit application.

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

(3) A performance bond in the form of government security, cash, irrevocable letter of credit, or any combination must be provided for the following conditions:

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

(b) 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.

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

(4) Any bond amount shall be based on a remediation and completion estimate as determined by the director of engineering and public works, or his/her designee, based on the size of the disturbed area.

(5) The city may refuse brokers or financial institutions the right to provide surety bonds, letter of credit, etc. based upon past performance, ratings or the financial institution, or other appropriate sources of reference information.

(6) 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.

(7) The performance bond is released upon receiving NOT from TDEC along with site visit and release approval by the director of engineering and public works, or his/her designee. (1999 Code, § 19-315)

19-216. Fees. The city council, at its discretion, may set fees for obtaining a grading permit. Such fee schedule may be established by resolution.

All development activities which require right-of-way cuts or excavation within the development site and shown on a site plan shall be subject to all

applicable fees. Grading activities which involve no construction or right-of-way cuts shall be subject to the grading permit fee schedule only.

After the city completes three (3) documented final land disturbance inspections requested by the permit holder for the same permit, a fee of fifty dollars (\$50.00) shall be required for each additional inspection request of the same land disturbance permit. (1999 Code, § 19-316)

19-217. General criteria. The following general rights are minimum requirements for the control of pollutants from land-disturbing activities. All soil erosion prevention and sediment control measures and practices shall conform to the requirements of this chapter. The application or measures and practices shall apply to all features of the site including street, utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion and sediment pollution during all stages of any land-disturbing activity.

(1) Requirements for best management practices. Owners and operators of land-disturbing activities shall implement appropriate erosion prevention and sediment control Best Management Practices (BMPs) in accordance with the State of Tennessee general NPDES permit for discharges of stormwater associated with construction activities and the *Tennessee Erosion and Sediment Control Handbook*.

(2) Technical design criteria. The design of erosion prevention and sediment and pollution management controls, including BMPs, stabilization practices and structural practices, shall be performed in accordance with criteria and requirements stated in State of Tennessee general NPDES permit for discharges of stormwater associated with construction activities and the *Tennessee Erosion and Sediment Control Handbook*, except where more stringent criteria are required by the director of engineering and public works, or his/her designee.

(3) Control measure construction and maintenance standards. The installation, inspection and maintenance of erosion prevention and sediment control practices, stabilization practices and structural practices shall be performed in accordance with the standards provided in the State of Tennessee general NPDES permit for discharges of stormwater associated with construction activities and the *Tennessee Sediment and Erosion Control Handbook*, latest edition, except where more stringent standards are required by the director of engineering and public works, or his/her designee. 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.

(4) More stringent criteria or standards. The director of engineering and public works, or his/her designee, may require more stringent criteria and standards where 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.

(5) Control of other construction related wastes. Owners and operators of land-disturbing activities shall control other construction-related wastes, as defined in this chapter, in accordance with the State of Tennessee general NPDES permit for discharges of stormwater associated with construction activities, except where more stringent criteria are required by the director of engineering and public works, or his/her designee. The discharge of such wastes in the stormwater discharges from a land-disturbing activity shall be prevented or minimized in accordance with the EPSC or sketch plan for the site of the activity.

(6) 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 earth moving operations begin, and must be constructed and maintained throughout land-disturbing activities. Temporary controls and measures may be removed at the beginning of the work day, but must be replaced at the end of the work day.

(7) Establishment of permanent vegetation. A permanent vegetative cover shall be established on disturbed areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until a ground cover is achieved in accordance with the final stabilization requirements of the State of Tennessee general NPDES permit for discharges of stormwater associated with construction activities and if the vegetation is, in the opinion of the director of engineering and public works, or his/her designee, mature enough to control soil erosion satisfactorily and to survive seasonal weather conditions. If it is determined by the director of engineering and public works, or his/her designee, that the vegetation will not withstand seasonal weather conditions, the release of unobligated monies or bonds shall be determined by the development standards board of appeals and may be reasonably delayed.

(8) 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 at a frequency sufficient to minimize off-site impacts or in accordance with the State of Tennessee general NPDES permit for discharges of stormwater associated with construction activities, whichever is more stringent. (For example, 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). Owners or operators shall not initiate remediation/restoration of a stream without first receiving approval from the City of Maryville and TDEC. Approval for remediation/restoration efforts from the City of Maryville 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.

(9) 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. Earthen structures such as dams, dikes, and diversions must be stabilized within seven (7) days of construction or in accordance with the State of Tennessee general NPDES permit for discharges of stormwater associated with construction activities, whichever is more stringent. These measures must be maintained in good working order and must remain in place until such time as the director of engineering and public works, or his/her designee, deems the area to be stabilized or in accordance with the State of Tennessee general NPDES permit for discharges of stormwater associated with construction activities, whichever is more stringent.

(10) Sediment basins. Temporary sediment basins shall be designed in accordance with the State of Tennessee general NPDES permit for discharges of stormwater associated with construction activities, except where more stringent criteria are required by the director of engineering and public works, or his/her designee. Any equivalent control measure that is substituted for a temporary sediment basin must be justified and approved by the director of engineering and public works, or his/her designee.

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. Converted detention ponds must be approved by the director of engineering and public works, or his/her designee, prior to release of bond. In addition, sod 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 of engineering and public works, or his/her designee.

(11) Sodding detention ponds, ditches and draining swales. Sod shall be used on detention ponds, ditches and drainage swales, or if velocities warrant stabilization. Stabilization methods other than sod may be approved by the director of engineering and public works, or his/her designee. The owner or operator shall maintain sodded areas until vegetation is permanently established.

(12) 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, up slope 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:

(a) Topsoil for the area should be stockpiled and then used for replacement on the graded area.

(b) Roughened soil surfaces are generally preferred to smooth surfaces on slopes.

(c) 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.

(d) 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.

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

(f) Slopes three to one (3:1) or greater shall be stabilized with erosion control matting or other method(s) approved by the director of engineering and public works, or his/her designee. The owner or operator shall maintain matted areas until permanent vegetation is established.

(13) Working in or crossing watercourses. Construction vehicles shall be kept out of watercourses. The channel (including bed and banks) must always be re-stabilized immediately after in-channel work is completed. Where a live watercourse must be crossed by construction vehicles regularly during construction, a temporary stream crossing must be provided, the design of which must be approved by the director of engineering and public works, or his/her designee, and the State of Tennessee where appropriate.

(14) Underground utility construction. The construction of underground utility lines shall be subject to the following criteria:

(a) Where consistent with safety and space considerations, excavated material shall be placed on the uphill side of trenches.

(b) Trench dewatering devices shall discharge in a manner which will not adversely affect flowing streams, drainage systems, or off-site property.

(15) Temporary stone construction entrance. Wherever construction access routes intersect paved public roads, provisions must be made to minimize the transport of sediment by runoff or vehicle tracking onto the paved surface by installation of a temporary stone construction exit in accordance with the *Tennessee Erosion and Sediment Control Handbook*. The temporary construction exit 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.

(16) Disposition 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 of engineering and public works, or his/her designee. 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 off-site sediment deposition.

(17) Stripping, clearing 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 ten (10) calendar days prior to grading or earth moving. Construction must be sequenced to minimize the exposure time of cleared areas. (1999 Code, § 19-317)

19-218. Variances. The director of engineering and public works, or his/her designee, may waive or modify any of the general 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:

(1) At the time of plan submission, an applicant may request variances to become part of the approved erosion prevention and sediment control plan. The applicant must explain the reasons for requesting variances in writing. Specific variances which are allowed must be documented on the approved erosion prevention and sediment control plan.

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

(3) Absent universal circumstances, a response to the variance request should be given by the city within twenty (20) working days. Without a written approval, no variance shall be considered valid. (1999 Code, § 19-318)

19-219. Right of entry. The director of engineering and public works, or his/her designee, may 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

during reasonable hours to monitor, remove foreign objects or blockages, and to inspect for compliance with the provisions of this chapter. (1999 Code, § 19-319)

19-220. Unlawful acts. The following are unlawful acts, any person who may:

- (1) Violate any provision of this chapter;
- (2) Violate the provisions of any permit issued pursuant to this chapter;
- (3) Fail or refuse to comply with any lawful notice to abate issued by the manager, which has not been timely appealed to the development standards board of appeals, within the time specified by such notice; or
- (4) Violate any lawful order of the city or the development standards 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. (1999 Code, § 19-320)

19-221. Notice of violation. Whenever the director of engineering and public works, or his/her designee, determines that a violation of any provision of this chapter has occurred, or that a land-disturbing activity is being performed without a required plan or permit, or that the land-disturbing activity does not comply with an approved plan or permit, the director of engineering and public works, or his/her designee, 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 doing work on the site of the land-disturbing activity. The notice of violation shall:

- (1) Be in writing;
- (2) Include a description of the property sufficient for identification of where the violation has occurred;
- (3) List the violation;
- (4) State the action required; and
- (5) Provide a deadline for compliance or to stop work. (1999 Code, § 19-322)

19-222. Appeals. Appeal or review of a civil penalty or damage assessment under this chapter shall be made to the City Council of the City of Maryville by any person incurring a damage assessment or civil penalty. Such review shall be requested within thirty (30) days after the damage assessment or civil penalty is served by filing a written notice of appeal with the city manager's office. If a petition for review of such damage assessment or civil penalty is not filed within thirty (30) days after the damage assessment or civil penalty 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. The alleged violator may appeal a decision of the city council, pursuant to

the provisions of state law found in title 27, chapter 8. Upon receipt of an appeal, the city council shall hold a public hearing within sixty (60) days or a later date mutually agreed upon by both parties. Ten (10) days prior, notice of the time, date and location of said hearing shall be published in the *Maryville-Alcoa Daily Times* or its equivalent local paper. Ten (10) days' notice shall be provided to the aggrieved party at the address provided at the time of the appeal. (1999 Code, § 19-323)

19-223. 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 appropriated for the administration of the city's stormwater program. (1999 Code, § 19-324)

19-224. Violations and penalty. (1) Any person violating the provisions of this chapter shall be guilty of a misdemeanor and punished as provided in the general provisions of the city code. Each day that a continuing violation of this chapter is maintained or permitted to remain shall constitute a separate offense.

(2) 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. The city may also recover all damages proximately caused to the city by such violation.

(3) In assessing the civil penalty, the city shall follow the provisions of the chart set forth herein and for any violation not listed may consider the following in determining the appropriate amount:

- (a) The harm done to the public health or the environment;
- (b) Whether the civil penalty imposed will be of substantial economic detriment to the illegal activity;
- (c) The economic benefit gained by the violator;
- (d) The amount of effort put forth by the violator to remedy this violation;
- (e) Any unusual or extraordinary enforcement costs incurred by the municipality;
- (f) The amount of penalty established by ordinance or resolution for specific categories for violations; and
- (g) All equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

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

(5) 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. 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.

(6) The remedies set forth in this section shall be cumulative, not exclusive, and is 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) If the director of engineering and public works, or his/her designee, finds any person, firm, or entity has engaged in or directed land-disturbing activities without having obtained a required grading permit from the City of Maryville, the following shall occur:

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

(b) If work continues. Assessment of civil penalties in the minimum amount of fifty dollars (\$50.00) and a maximum amount of five thousand dollars (\$5,000.00) for each day work continues without a grading permit.

(c) The permit fees will automatically double.

(8) If the director of engineering and public works, or his/her designee, finds any person, firm, or entity has engaged in or directed land-disturbing activities that is subject to the State of Tennessee general NPDES permit for discharges of stormwater associated with construction activities without having obtained the required NPDES permit, the following shall occur:

(a) First offense. A stop work order and a notice of violation will be issued. TDEC will be notified of the violation. The owner/operator will be required to obtain a grading permit per § 19-206(3). The stop work order will not be rescinded until the required NPDES and grading permits are obtained.

(b) If work continues. Assessment of civil penalties in the minimum amount of five hundred dollars (\$500.00) and a maximum amount of five thousand dollars (\$5,000.00) for each day work continues without the required permits.

(c) The permit fees will automatically double.

(9) Enforcement and penalties for all other violations of this chapter shall occur in the following manner:

(a) First offense. Written warning with a maximum of two (2) days for compliance. If conditions warrant in the judgment of the director of engineering and public works, or his/her designee, a stop work order will be immediately issued.

(b) Second offense. Notice of violation, stop work order, suspension of all city inspections until violation is corrected.

(c) Third offense. Notice of violation, stop work order, suspension of all city inspections until the violation is corrected, TDEC notification and the imposition of a civil penalty in accordance with the following:

| <u>Violation</u> | <u>Max. Penalty</u> | <u>Min. Penalty</u> |
|--|---------------------|---------------------|
| Failure to obtain grading permit coverage | \$5,000.00 | \$2,500.00 |
| Notice of coverage and grading permit not posted on site | \$5,000.00 | \$500.00 |
| No SWPPP and/or EPSC plan on site | \$5,000.00 | \$1,000.00 |
| EPSC plan incomplete or not kept current with site conditions and best management practices | \$5,000.00 | \$500.00 |
| Failure to resubmit EPSC plan for approval (after direction to do so by the director of engineering and public works, or his/her designee) | \$5,000.00 | \$500.00 |
| EPSC measures not constructed in accordance with approved plan | \$5,000.00 | \$1,000.00 |
| EPSC measures not properly maintained | \$5,000.00 | \$1,000.00 |
| Disturbance more than that allowed by the State of Tennessee general NPDES permit for discharges of stormwater associated with construction activities at one (1) time | \$5,000.00 | \$1,000.00 |
| Failure to designate and maintain buffer zone (where applicable) | \$5,000.00 | \$1,000.00 |
| Failure to have certified inspector | \$5,000.00 | \$500.00 |
| Failure to retain sediment on site | \$5,000.00 | \$1,000.00 |
| Pollutant (sediment or other construction related waste) discharge into waters of the state | \$5,000.00 | \$2,500.00 |
| Violating any other term or condition of this chapter and/or a stormwater NPDES permit | \$5,000.00 | \$500.00 |

(d) An additional penalty of five hundred dollars (\$500.00) shall be added to the schedule of penalties, up to a maximum of five thousand

dollars (\$5,000.00), for any person or entity that has more than three (3) related offenses or has a documented history of three (3) or more offenses at multiple development or redevelopment sites in the City of Maryville.

(10) 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.

(11) All stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred, and the City of Maryville has released the stop work order after inspection of the site indicates conformance. Such notice shall be in writing and shall be given to the owner of the property, or 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.

(12) 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 will be denied to that person. The person may appeal within thirty (30) days of the denial by requesting a hearing by the city manager, or his designee, to attempt to obtain the desired permits. (1999 Code, § 19-321)

CHAPTER 3

RULES, RATES AND CHARGES FOR THE STORMWATER UTILITY SERVICE

SECTION

- 19-301. Rules, rates, and charges adopted.
- 19-302. Findings.
- 19-303. Definitions.
- 19-304. Determination and modification of stormwater service charges.
- 19-305. Effective date of stormwater service charges.
- 19-306. Stormwater service charges.
- 19-307. Exemptions and credits applicable to stormwater service charges.
- 19-308. Stormwater service charge billing, delinquencies, and collections.
- 19-309. Application of utility service charges billed in common.
- 19-310. Removal or cessation of utility services.
- 19-311. Appeals.
- 19-312. City of Maryville, Tennessee Stormwater Utility Credit Manual for Stormwater Fees.

19-301. Rules, rates, and charges adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 68-221-1101 to 68-221-1113, and for the purpose of providing stormwater management operations and establishing a stormwater utility service charge within the City of Maryville, the *Rules, Rates, and Charges for the Stormwater Utility Service Charge* are hereby adopted and incorporated by reference as part of this code. (1999 Code, § 19-501)

19-302. Findings. The Council of the City of Maryville makes the following additional findings:

(1) An equitable approach to funding stormwater management services and facilities can be provided by adopting a schedule of service charges upon properties that is related to the burden of stormwater quantity and quality control service requirements and costs posed by properties throughout the city.

(2) Such schedule of service charges can be complemented by other funding methods that address specific needs, including, but not limited to, allocations of local option sales taxes to stormwater drainage improvement projects, collection of fees for special services including, but not limited to, plan reviews and inspections, and establishment of a capital recovery fee or fees consistent with state law.

(3) A service charge credit is an appropriate means of adjusting service charges 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.

(4) 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 service charges and associated credits. (1999 Code, § 19-502)

19-303. Definitions. As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Credit" means a conditional reduction in the amount of a stormwater service charge to an 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 affect that such systems have on the peak rate of runoff from the individual property. "Credits" shall be defined and implemented in a *City of Maryville Stormwater Credit Policy Manual* which shall be produced by the city engineer, and changed as deemed necessary at the sole discretion of the city engineer.

(2) "Customers of the stormwater utility" includes all persons, properties, and entities served by and/or benefitting 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 benefitted as a result of the stormwater management program.

(3) "Detached dwelling unit" means developed land containing one (1) structure which is not attached to another dwelling and which contains one (1) or more rooms with a bathroom and kitchen facilities designed for occupancy by one (1) family. "Detached dwelling units" may include houses, manufactured homes, and mobile homes located on one (1) or more individual lots or parcels of land. Developed land may 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 (1) 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.

(4) "Developed land" means property altered from a natural state by construction or installation of more than two hundred (200) square feet of impervious surfaces as defined in this chapter.

(5) "Duplexes and triplexes" means developed land containing two (2) (duplex) or three (3) (triplex) attached residential dwelling units located on one (1) or more parcels of land.

(6) "Equivalent residential unit (ERU) of impervious area" means the median impervious coverage of detached dwelling unit properties in the City of Maryville as determined by the city, and shall be used as the basis for determining stormwater service charges to detached dwelling unit properties or classes of detached dwelling unit properties and other properties. Two thousand, four hundred (2,400) square feet of impervious area shall be one (1) equivalent residential unit (ERU).

(7) "Flood control facilities" means all natural and human-made conveyances and structures for which the partial or full purpose or use is to convey surface flood runoff water within the jurisdictional boundaries of Maryville. This includes all natural conveyances for which the city has assumed a level of maintenance responsibility, 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.

(8) "Impervious surfaces" means those areas which 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.

(9) "Multiple dwelling unit residential properties" means developed land whereon four (4) or more attached residential dwelling units are located and shall include, but not be limited to, apartment houses, condominiums, townhomes, attached single-family homes, boarding houses, group homes, hotels and motels, retirement centers, and other structures in which four (4) or more family groups commonly and normally reside or could reside. In the application of stormwater service charge rates, multiple dwelling unit properties shall be treated as other developed lands. However, "multiple dwelling unit residential properties" where individual residential dwelling units are owned independently, such as residential condominiums, may be treated as detached dwelling unit properties in the application of stormwater service charge rates.

(10) "Other developed land" means, but shall not be limited to, multiple dwelling unit residential properties, 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.

(11) "Stormwater" means 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 drainage.

(12) "Stormwater management facilities" means those natural and human-made drainage structures, conveyances, conduits, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed of.

(13) "Stormwater service charge" means the stormwater management service charge or charges applicable to a parcel of developed land, which charge shall be reflective of the City of Maryville stormwater utility's cost of providing stormwater management services and facilities. Stormwater service charge may also be termed "stormwater utility service charge." (1999 Code, § 19-503)

19-304. Determination and modification of stormwater service charges. Stormwater service charges may be determined and modified from time to time by the Council of the City of Maryville so that the total revenue generated by said charges 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, the payment of principal and interest on debt incurred for stormwater management purposes, and such 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. These fees shall be reasonable in amount and used exclusively by the municipality for purposes set forth in this chapter. Such a graduated stormwater user's fee shall be based on actual or estimated use of the stormwater and/or flood control facilities of the municipality, and each user or user class shall only 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 stormwater 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 the amount of impervious area utilized by the user, the water quality of the user's stormwater runoff or the volume or rate of stormwater runoff.

The use of any particular parameter as a service charge 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 (1) 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 service charges may also include special charges to individual customers for services or facilities related to stormwater management, including, but not limited to, charges for development plan review, inspection of development projects and on-site stormwater control systems, and enhanced levels of stormwater services above those normally provided by the city. (1999 Code, § 19-504)

19-305. Effective date of stormwater service charges. Stormwater service charges shall accrue beginning January 1, 2004 and shall be billed periodically thereafter to customers except as specific exemptions and adjustments may apply. (1999 Code, § 19-505)

19-306. Stormwater service charges. 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.

(1) **Detached dwelling units.** Detached dwelling units shall be charged the rate applicable to one (1) equivalent residential unit as specified in § 18-806(3), or as amended by ordinance in the future.

(2) **Other developed lands.** All developed lands not classified as detached dwelling units shall be billed for one (1) equivalent residential unit (ERU) as specified below in § 18-806(3) for each two thousand, four hundred (2,400) square feet of impervious surface or increment thereof, or as amended by ordinance in the future.

(3) The stormwater service charge rate per equivalent residential unit, as defined in this chapter, shall be three dollars and ninety-seven cents (\$3.97) per month until and unless the service charge rate is changed by the Council of the City of Maryville. (1999 Code, § 19-506)

19-307. Exemptions and credits applicable to stormwater service charges. Except as provided in this section, no public or private property shall be exempt from stormwater utility service charges or receive a credit or offset against such service charges. No exemption, credit, offset, or other reduction in stormwater service charges 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.

(1) The following exemptions from stormwater service charges shall be allowed:

(a) Undeveloped land, as defined this chapter, shall be exempt from stormwater charges;

(b) Railroad tracks shall be exempt from stormwater service charges. However, railroad stations, maintenance buildings, or other developed land uses for railroad purposes shall not be exempt from stormwater charges; and

(c) Improved public road rights-of-way of federal, state, or local governments that are available for vehicular transportation by the general public are exempt from stormwater service charges. Platted private roads and platted private rights-of-way are further exempt from stormwater charges.

(2) Stormwater service charge credits shall be allowed for the following activities/occurrences shall be effective when initiated at the discretion of the City of Maryville and in accordance with a credit manual described subsequently:

(a) 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.

(b) Detached dwelling units whose total impervious surface area is less than one thousand, eight hundred (1,800) square feet.

(c) Schools that teach approved water conservation curricula. This credit will be allowed at such time as the City of Maryville's NPDES Phase II permitted program is in place.

(d) 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 by the City of Maryville. This credit will be allowed at such time as City of Maryville's NPDES Phase II permitted program is in place.

(e) Other developed lands that have, and maintain, a Tennessee Multi-Sector General Permit for industrial activities. This credit will be allowed at such time as the City of Maryville's NPDES Phase II permitted program is in place.

(3) A stormwater service charge credit manual shall be prepared by the City of Maryville Department of Engineering, Planning and Codes specifying the design and performance standards of on-site systems, facilities, activities, and services which qualify for application of a service charge credit, and how such credits shall be calculated.

(4) The stormwater service charge credit shall be determined based on the technical requirements and standards contained in the stormwater service charge credit manual. The stormwater service charge credit may be up to fifty percent (50%) of the service charge applicable to a property, and 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.

(5) 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 service charge credit. The stormwater service charge credit shall be determined based on the technical requirements and standards contained in the stormwater service charge credit manual. The stormwater service charge credit available to groups of detached dwelling units may be up to fifty percent (50%) of the service charge applicable to the individual properties, and shall be proportional to the extent that on-site systems and facilities provided, operated, and maintained by the homeowner's association reduce or mitigate the stormwater utility's cost of providing services and facilities.

(6) Any credit allowed against the stormwater service charge is conditioned on continuing compliance with the city's design and performance standards as stated in the stormwater service charge credit 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 noncompliance. Thirty (30) days notice of a noncomplying condition and intent to revoke a stormwater service charge credit shall be provided to the stormwater service charge customer receiving a credit before the credit is revoked, thereby allowing the customer the opportunity to attain compliance. (1999 Code, § 19-507)

19-308. Stormwater service charge billing, delinquencies, and collections. A stormwater service charge 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 service 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 ten (10) years, but shall not assess penalties for any delinquency. A late charge will be based upon the unpaid balance in accordance with the *City of Maryville Customer Service Policy Manual*. (1999 Code, § 19-508)

19-309. Application of utility service charges billed in common. Insofar as allowed by existing bond covenants of the stormwater utility charge is billed and collected along with other city utility services, any payment of utility service charges billed in common shall be applied to the customer's bill

as established through other related requirements imposed by TVA and the *City of Maryville Customer Service Policy Manual*. (1999 Code, § 19-509)

19-310. Removal or cessation of utility services. The City of Maryville may remove or cease to provide any utility services as it determines necessary to enforce the payment of all city utility service charges. (1999 Code, § 19-510)

19-311. Appeals. Any stormwater utility service customer who believes the provisions of this chapter have been applied in error may appeal in the following manner:

(1) An appeal must be filed in writing with the City of Maryville Department of Engineering, Planning and Codes. In the case of service charge appeals, the appeal shall include a survey 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.

(2) Using the information provided by the appellant, the director of the department of engineering, planning and codes shall conduct a technical review of the conditions on the property and respond to the appeal in writing within thirty (30) days.

(3) In response to an appeal the director of the department of engineering, planning and codes may adjust the stormwater service charge applicable to a property in conformance with the general purpose and intent of the chapter.

(4) A decision of the director of the department of engineering, planning and codes which is adverse to an appellant may be further appealed to the city manager within thirty (30) days of the adverse decision. Notice of the appeal shall be delivered to the city manager by the appellant, stating the grounds for the further appeal. The city manager shall issue a decision on the appeal within thirty (30) days. All decisions of the city manager shall be served on the customer personally or by registered or certified mail. Service shall be based upon the service charge billing address of the customer.

(5) A decision of the city manager that is adverse to an appellant may be further appealed to the city council within thirty (30) days of the adverse decision.

(6) The appeal 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. (1999 Code, § 19-511)

19-312. City of Maryville, Tennessee Stormwater Utility Credit Manual for Stormwater Fees. The *City of Maryville, Tennessee Stormwater Utility Credit Manual for Stormwater Fees*, is hereby adopted and incorporated by reference as part of the municipal code. A copy of this manual shall be

available for review and copying at the city recorder's office during regular business hours. (1999 Code, § 19-512, modified

CHAPTER 4

STORMWATER DISCHARGES

SECTION

- 19-401. Purpose.
- 19-402. Rules applying to chapter.
- 19-403. Definitions.
- 19-404. Prohibitions.
- 19-405. Notification of spills and illicit discharges.
- 19-406. Requirements for monitoring.
- 19-407. Right of entry.
- 19-408. Notice of violation.
- 19-409. Violations and penalty.

19-401. Purpose. The purpose of the illicit discharge ordinance is as follows:

- (1) To safeguard the health, safety, and general welfare of the citizens;
 - (2) To prevent the pollution of streams, ponds and other watercourses from illicit discharges;
 - (3) To preserve the natural beauty and aesthetics of the community;
- and
- (4) To enable the City of Maryville to comply with the NPDES general permit for discharges from small municipal separate storm sewer systems, TMDLs and other applicable state and federal regulations. (1999 Code, § 19-601)

19-402. Rules applying to chapter. For the purpose of this chapter, certain rules of construction shall apply herein as follows:

- (1) Words used in the present tense shall include the future tense and the singular includes the plural, unless otherwise indicated in the text.
- (2) The term "shall" or "must" is always mandatory and not discretionary. The words "may" and "should" are permissive in nature.
- (3) Except as herein provided, all words used in this chapter shall have their common dictionary definition. (1999 Code, § 19-602)

19-403. Definitions. The following phrases as used in this section shall contain the following definitions:

- (1) "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.

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

(3) "Industrial waste." Liquid or other waste resulting from any process of industry, manufacturer, trade or business, or from the development of any natural resources.

(4) "Other wastes." Discarded brush, sawdust, shaving, leaves, lawn clippings, animal waste, used or previously applied lime, garbage, trash, refuse, used newspaper, 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 gas tanks or chemicals, or any other used, uncontained, unpackaged, or disposed of materials which may discharge to, or otherwise enter, the stormwater system.

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

(6) "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.

(7) "Restaurant." An establishment or facility where food is prepared and sold.

(8) "Runoff." The water resulting from precipitation that is not absorbed by the soil.

(9) "Sanitary sewer." A system of underground conduits that collect and deliver sanitary wastewater to a wastewater treatment plant.

(10) "Sanitary wastewater." Wastewater from toilets, sinks and other plumbing fixtures.

(11) "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.

(12) "Sinkhole." (a) A naturally occurring depression where drainage collects in the earth's surface that is a minimum of two feet (2') deep; or

(b) 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.

(13) "Stormwater." Rainfall or ice melt that is not absorbed by the ground.

(14) "Stormwater system." The system of roadside drainage, 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 human-made, 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 Maryville or any other person. (1999 Code, § 19-603)

19-404. Prohibitions. (1) No person shall:

(a) Connect, or allow to be connected, any sanitary sewer to the stormwater system, including any sanitary sewer connected to the stormwater system as of the date of adoption of this chapter; or

(b) 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:

(i) Sewage discharges except as deemed unavoidable due to collection system operation maintenance and extreme weather events;

(ii) Discharges of wash water from mobile operations such as mobile automobile washing, steam cleaning, power washing, or carpet cleaning;

(iii) Discharges of pool or fountain water containing chlorine, biocides, or other chemicals at the point of entry of an enclosed stormwater system or stream, or discharges of pool or fountain filter backwash water;

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

(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, or outdoor eating or drinking areas;

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

(vii) Discharges of dyes without proper permission;

(viii) Discharges of laundry wastewater;

(ix) Known discharges from leaking water or sewer lines remaining uncorrected for seven (7) days;

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

(xi) Discarding of vehicles equipment or vehicle parts;

(xii) Discarding lawn clippings, leaves or branches;

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

(xiv) Discarding or applying herbicides, pesticides, fertilizers or other chemicals;

(xv) Discharges of runoff from materials storage areas where chemicals, fuels, grease, oils, or other hazardous materials are stored;

(xvi) 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; and

(G) Other producers of pollutants identified by the director of engineering and public works, or his/her designee, 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.

(2) Subject to the provisions of subsection (3), the following discharges shall not be in violation of this chapter:

(a) Water line flushing;

(b) Landscape irrigation;

(c) Diverted stream flows or rising groundwater;

(d) Infiltration of uncontaminated groundwater (as defined by federal regulations) to separate storm drains;

(e) Pumping of uncontaminated groundwater;

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

(g) Lawn watering;

(h) 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;

(i) Flows from riparian habitats and wetlands;

- (j) Dechlorinated swimming pool discharges;
- (k) Incidental street wash water from street cleaning equipment designed for cleaning paved surfaces and limiting waste discharges;
- (l) Street deicing for public safety;
- (m) Any activity authorized by a valid NPDES permit; and
- (n) Any flows resulting from firefighting.

(3) If the director of engineering and public works, or his/her designee, finds that any of the activities listed in subsection (2) above are found to cause, or may cause, sewage or industrial wastes or other wastes to be discharged into the stormwater system, the director of engineering and public works, or his/her designee, shall notify the person performing such activity and shall order that such activities be stopped or conducted in such manner as to avoid improper discharge into the stormwater system. Failure to comply with such order shall be a violation of this section. (1999 Code, § 19-604)

19-405. Notification of spills and illicit discharges. As soon as any person has knowledge of any illicit discharge to the stormwater system in violation of this chapter, such person shall immediately notify the City of Maryville Stormwater Department by telephone of the discharge. If such person is directly or indirectly responsible for such discharge or responsible for the operation of the system involved in such discharge, 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 stormwater department within three (3) calendar days. At a minimum, the written report for any illicit discharge shall include:

- (1) Date and time of discharge.
- (2) Location of the discharge.
- (3) Material or substance discharged.
- (4) Duration and rate of flow.
- (5) Total volume discharged.
- (6) Total volume recovered.
- (7) Cause or reason of the discharge.
- (8) Remediation or containment action taken.
- (9) Material Safety Data Sheets (MSDS) for the discharged material.
- (10) Action taken to prevent further discharges.
- (11) Description of any environmental impact. (1999 Code, § 19-605)

19-406. Requirements for monitoring. The stormwater department may require any person engaging in any activity or owning any property, building or facility (including, but not limited to, at site of industrial activity) to undertake such reasonable monitoring of any discharge(s) to the stormwater system and to furnish periodic detailed reports of discharges and/or illicit discharges. (1999 Code, § 19-606)

19-407. Right of entry. The director of engineering and public works, or his/her designee, may enter upon the property which discharges or contributes, or is believed to discharge or contribute, to stormwater runoff or to the stormwater system stream or natural drainageway during all reasonable hours to monitor, to remove foreign objects or blockages, or to inspect for compliance with the provisions of this chapter. (1999 Code, § 19-607)

19-408. Notice of violation. Whenever the director of engineering and public works, or his/her designee, determines that a violation of any provision of this chapter has occurred, the director of engineering and public works, or his/her designee, may issue a notice of violation to the property owner, utility, facility operator, lessee, contractor, permittee or equipment operator of the site of the discharge. The notice of violation shall:

- (1) Be in writing;
- (2) Include a description of the property sufficient for identification of where the violation has occurred;
- (3) List the violation;
- (4) State the action required; and
- (5) Provide a deadline for compliance or to stop work. (1999 Code, § 19-608)

19-409. Violations and penalty. (1) Any person violating the provisions of his chapter shall be guilty of a misdemeanor and punished as provided in the general penalty clause of the city code. Each day of a continuing violation of this chapter shall constitute a separate offense.

(2) Any person violating the provisions of this chapter may further be assessed by the director of engineering and public works, or his/her designee, a civil penalty of not less than fifty dollars (\$50.00) or more than five thousand dollars (\$5,000.00) per day for each violation. Each day of violation shall constitute a separate offense.

- (3) In assessing a civil penalty, the municipality may consider:
 - (a) The harm done to the public health or the environment;
 - (b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
 - (c) The economic benefit gained by the violator;
 - (d) The amount of effort put forth by the violator to remedy this violation;
 - (e) Any unusual or extraordinary enforcement costs incurred by the municipality;
 - (f) The amount of penalty established by ordinance or resolution for specific categories of violations, if any; and
 - (g) The equities of the situation that outweigh the benefit of imposing any penalty or damage assessment.

(4) In addition to the civil penalty set forth in subsection (2) above, the city may recover all damages proximately caused by the violator to the municipality, including, but not limited to, reasonable expenses incurred in investigating violations and enforcing violations of this chapter.

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

(6) The remedies set forth in this section shall be cumulative, not exclusive, and it shall not 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) Any civil penalty assessed by the city may be appealed to the Blount County Circuit Court. (1999 Code, § 19-609)

CHAPTER 5**VEGETATED BUFFER ZONE AND
STORMWATER QUALITY MANAGEMENT****SECTION**

- 19-501. Purpose.
- 19-502. Rules applying to chapter.
- 19-503. Definitions.
- 19-504. Authority.
- 19-505. Requirement for submittal of a Water Quality Management Plan (WQMP).
- 19-506. General requirements.
- 19-507. Water quality treatment requirements.
- 19-508. Channel protection requirements.
- 19-509. Requirement for submittal of a Special Pollutant Abatement Permit (SPAP).
- 19-510. General requirements for water quality buffers.
- 19-511. Minimum width and vegetation standards for buffers on streams and rivers.
- 19-512. Minimum width and vegetation standards for buffers on ponds and lakes.
- 19-513. Minimum width and vegetation standards for buffers on wetlands.
- 19-514. Additional vegetation requirements for water quality buffers.
- 19-515. Requirements for steep slopes in water quality buffer areas.
- 19-516. Activities within the water quality buffer.
- 19-517. The protection of water quality buffers during construction.
- 19-518. The protection and maintenance of water quality buffers after construction.
- 19-519. Plats prepared for recording.
- 19-520. Conflicts with state requirements for buffer areas.
- 19-521. Performance bond.
- 19-522. NPDES permits.
- 19-523. As-built drawings.
- 19-524. Right of entry.
- 19-525. Inspection and maintenance.
- 19-526. Corrective actions.
- 19-527. Feature integrity.
- 19-528. Conflict and severability.
- 19-529. Responsibility.
- 19-530. Enforcement during construction.
- 19-531. Enforcement after construction.
- 19-532. Variances.
- 19-533. Unlawful acts.

- 19-534. Notice of violation.
- 19-535. Judicial proceedings and relief.
- 19-536. Appeals.
- 19-537. Special fund created.
- 18-638. Violations and penalty.

19-501. Purpose. The purpose of the stormwater quality management and vegetated buffers chapter is as follows:

- (1) To apply to all areas located within the jurisdiction of the City of Maryville;
 - (2) To safeguard the health, safety, and general welfare of the citizens;
 - (3) To preserve the value of land throughout the city;
 - (4) To establish reasonable and accepted standards of design and procedures that prevent or reduce the discharge of pollutants from developed or redeveloped land;
 - (5) To preserve the natural beauty and aesthetics of the community;
- and
- (6) To enable the City of Maryville to comply with the NPDES general permit for discharges from small municipal separate storm sewer systems, TMDLs and other applicable state and federal regulations. (1999 Code, § 19-701)

19-502. Rules applying to chapter. For the purpose of this chapter, certain rules of construction shall apply as follows:

- (1) Words used in the present tense shall include the future tense and the singular includes the plural, unless otherwise indicated in the text.
- (2) The term "shall" or "must" is always mandatory and not discretionary. The words "may" and "should" are permissive in nature.
- (3) Except as herein provided, all words used in this chapter shall have their common dictionary definition. (1999 Code, § 19-702)

19-503. Definitions. (1) "Applicant." Person submitting the application for a grading permit. Typically, this is the owner or operator of the land-disturbing activity.

(2) "As-built drawings." As-built, field verified plans signed and sealed by a registered professional engineer and/or a registered land surveyor, both licensed to practice in the State of Tennessee, showing contours, elevations, grades, and location of drainage and hydraulic structures and permanent best management practices.

(3) "Best Management Practices (BMP or BMPs)." Schedules of activities, prohibitions of practices, maintenance procedures, water quality management facilities, structural controls and other management practices designed to prevent or reduce the pollution of waters of the United States and to provide water quality treatment and channel protection in accordance with

this chapter. Water quality BMPs may include structural devices, such as stormwater ponds, extended detention ponds or bioretention areas, or non-structural practices such as vegetated buffers, water quality buffers or natural open spaces.

(4) "Buffer enhancement plan." A plan required by the City of Maryville for any alteration to a water quality buffer.

(5) "City manager." The City Manager for the City of Maryville, Tennessee.

(6) "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.

(7) "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 sanitary waste at the construction site.

(8) "Covenants for permanent maintenance of water quality best management practices." A legal document executed by the property owner, 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 BMPs.

(9) "Detailed plans." Plans required by the City of Maryville Land Development and Public Works Standards that present detailed information on the stormwater drainage structures and control measures that will be constructed for a proposed development or redevelopment.

(10) "Developer." The person, firm or corporation, either public or private, engaged in the development of land, as defined below.

(11) "Development." A "development" includes any of the following activities:

(a) The improvement of one (1) lot or two (2) or more contiguous lots, tracts or parcels of land for any purpose involving:

(i) One (1) or more residential or non-residential buildings, or a single non-residential building on a lot or lots regardless of the number of occupants or tenure; or

(ii) 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.

(b) A subdivision of land.

(12) "Development standards board of appeals." The body that has been delegated the authority by the Council of the City of Maryville to hear appeals concerning decisions made by the city manager, or his designee, regarding the interpretation of the meaning of this code.

(13) "Easement." A legally-dedicated right-of-way on property for the purposes of allowing the city to manage and maintain infrastructure, site access or stormwater flow within specified boundaries.

(14) "Grading permit." A permit issued to authorize excavation and/or fill to be performed under the guidelines of this chapter.

(15) "Hotspot." An area where the land use or activities generate, or have the potential to generate, highly contaminated runoff, with concentrations in excess of those typically found in stormwater.

(16) "Impervious surfaces." Areas that prevent or impede the infiltration of stormwater into the soil as it infiltrated 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.

(17) "Lake." See "pond."

(18) "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, redevelopment, demolition, construction, reconstruction, clearing, grading, filling, logging and/or tree chipping operations, haul roads associated with the development, and excavation.

(19) "Native vegetation." Plants indigenous to east Tennessee.

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

(21) "Operator." In the context of construction activity stormwater, "operator" means any person associated with a construction project that meets either of the following two (2) criteria:

(a) This person has 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) This person has day-to-day operational control of those activities at a project site which are necessary to ensure compliance with a site plan, EPSC plan, WQMP, 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.

(22) "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.

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

(24) "Policy manual." The *Policy Manual for Stormwater Quality Management* prepared and maintained by the City of Maryville that contains

policies, technical criteria, tools and guidelines and other supporting documentation for implementation of the provisions of this chapter.

(25) "Pond." For the specific purpose of water quality buffers, a "pond" or a "lake" is an inland body of standing water.

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

(27) "Redevelopment." The improvement of a lot or lots that have been previously developed.

(28) "River." See "stream."

(29) "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 result of erosion.

(30) "Sedimentation." The action or process of forming or depositing sediment.

(31) "Slope." The degree of deviation of a surface from the horizontal, usually expressed in percent or degrees.

(32) "Stormwater." Also "stormwater runoff" or "runoff." Surface water resulting from rain, snow, or other form of precipitation, which is not absorbed into the soil and results in surface water flow and drainage.

(33) "Stream." For the specific purpose of water quality buffers, a "stream" is defined as a linear surface water conveyance that can be characterized with either perennial or ephemeral base flow and:

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

(b) Are identified as a blue line on a seven and one-half (7-1/2) minute USGS quadrangle, unless otherwise designated by the Tennessee Department of Environmental Conservation (TDEC); or

(c) Are determined to be streams by the City of Maryville, the United States Army Corps of Engineers (USACE) or the Tennessee Department of Environmental Conservation (TDEC).

(34) "Structure." Anything constructed or erected such that the use of it requires a more or less permanent location on or in the ground. "Structures" include, but are not limited to, buildings, towers, smokestacks, overhead transmission lines, carports and walls.

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

(36) "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.

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

(38) "Water quality buffer." A use-restricted, vegetated area that borders waters of the state located within the City of Maryville, containing natural, enhanced or restored vegetation and grasses, and exists, or is established, to protect those waterbodies. The "water quality buffer" shall be located and platted per the requirements of this chapter.

(39) "Water Quality Management Plan (WQMP)." An engineering plan for the location and/or design of BMPs within a proposed development or redevelopment. A WQMP includes a map showing the extent of the land development activity and location of BMPs, design calculations for BMPs, and, when applicable, includes as-built plans and covenants for permanent maintenance of best management practices.

(40) "Water quality volume reduction." A decrease in the water quality volume for one (1) or more areas of a proposed development that may be obtained for qualified 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 technical criteria, as defined by the City of Maryville, are met.

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

(42) "Watercourse." Any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows either continuously or intermittently and that has a defined channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of overflow or flood water.

(43) "Waters of the state." Any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through, or border upon Tennessee or any portion thereof except those bodies of water confined to, and retained within, the limits of private property in single ownership which do not combine or affect a junction with natural surface or underground waters.

(44) "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, and/or 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. (1999 Code, § 19-703)

19-504. 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, or his/her designee, has the authority to promulgate rules, regulations, policies and guidance consistent with this chapter in order to carry out the meaning and intent through a *City of Maryville Policy Manual for Stormwater Quality Management* (or policy manual). The policies, criteria and requirements stated in the policy 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 penalty provisions of this chapter shall be implemented. (1999 Code, § 19-704)

19-505. Requirement for submittal of a Water Quality Management Plan (WQMP). (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 Maryville without meeting the requirements of this chapter, unless exempted from obtaining a grading permit under chapter 7 of this title of the City of Maryville Municipal Code.

(2) 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 equal to, or greater than, one (1) acre that must obtain a grading permit, unless exempted from obtaining a grading permit under chapter 7 of this title of the City of Maryville Municipal Code, shall submit a WQMP for approval by the director of engineering and public works, or his/her designee.

(3) The WQMP shall be submitted as part of the erosion prevention and sediment control plan, or detailed plans, in accordance with, and as required by, the Maryville Land Development and Public Works Standards.

(4) No grading or building permit shall be issued until a WQMP has been approved by the director of engineering and public works, or his/her designee.

(5) Developments or redevelopments of any size that received approval of detail plans prior to the effective date of this chapter, or developments or redevelopments for which a WQMP was not required prior to the effective date of this chapter, shall be exempted from the requirements of this chapter. (1999 Code, § 19-705)

19-506. General requirements. (1) The WQMP shall include all of the required elements that are listed and/or described in the policy manual. The

director of engineering and public works, or his/her designee, may require submittal of additional information in the WQMP 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 of engineering and public works, or his/her designee.

(2) The WQMP shall be subject to any additional requirements set forth in the minimum subdivision regulations, zoning ordinance, the Land Development and Public Works Standards or other City of Maryville regulations.

(3) The WQMP shall be prepared and stamped by a professional engineer, landscape architect, or architect competent in civil and site design and licensed to practice in the State of Tennessee. Portions of the WQMP 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.

(4) The approved WQMP shall be followed during grading and construction activities. Under no circumstance is the owner or operator of land development activities, or any person(s) acting on the owner's behalf, allowed to deviate from the approved WQMP without prior written approval of a plan amendment by the director of engineering and public works, or his/her designee.

(5) The approved WQMP shall be amended if the proposed site conditions change after plan approval is obtained, or if it is determined by the director of engineering and public works, or his/her designee, during the course of grading or construction that the approved plan is inadequate.

(6) The WQMP shall include a listing of any legally-protected state or federally-listed threatened or endangered species and/or critical habitat located in the area of development or redevelopment (if any), and a description of the measures that will be used to protect them during and after grading and construction. United States Fish and Wildlife approval is required for all protection measures.

(7) 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 WQMP to the City of Maryville.

(8) BMPs, water quality buffers and water quality volume reduction areas shown in WQMPs shall be maintained through the declaration of a protective covenant, entitled "Covenants for Permanent Maintenance of Water Quality Best Management Practices" (covenant). The covenant must be approved by, and shall be enforceable by, the City of Maryville. The covenant shall be recorded with the deed and shall run with the land and continue in perpetuity.

(9) BMPs, water quality buffers and water quality volume reduction areas shall be placed into a permanent easement that is recorded with the deed

to the parcel and held by the City of Maryville. A maintenance right-of-way or easement, having a minimum width of twenty feet (20') from a driveway, public road or private road shall also be provided.

(10) The owner or operator of any land development activities 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 of engineering and public works, or his/her designee, 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 or channel protection. Areas subject to additional requirements may also include developments, redevelopments or land uses that are considered pollutant hotspots.

(11) The director of engineering and public works, or his/her designee, may waive or modify the requirements of the chapter if adequate water quality treatment and channel protection are suitably provided by a downstream or shared off-site BMP, or if engineering studies determine that installing the required BMP(s) would actually cause adverse impact to water quality or cause increase channel erosion or downstream flooding. (1999 Code, § 19-706)

19-507. Water quality treatment requirements. All new developments or redevelopments that submit a WQMP shall provide treatment of stormwater runoff in accordance with the following requirements:

(1) Stormwater runoff generated from the development or redevelopment must be treated for water quality prior to discharging from the property, in accordance with the stormwater pollutant removal treatment standard and criteria provided in the policy manual.

(2) The treatment of stormwater runoff shall be achieved through the use of one (1) or more BMPs that are designed and constructed in accordance with the design criteria, guidance and specifications provided in the policy manual.

(3) Methods, designs or technologies for BMPs that are not specified in the policy manual may be submitted for approval by the director of engineering and public works, or his/her designee, if it is proven that such methods, designs or technologies will meet or exceed the stormwater treatment standards set forth in the policy manual and this chapter. Proof of such methods, designs, or technologies must meet the minimum testing criteria set forth in the policy manual.

(4) BMPs shall not be installed within the public right-of-way without prior approval of the director of engineering and public works, or his/her designee. (1999 Code, § 19-707)

19-508. Channel protection requirements. (1) All new developments or redevelopments that are required to submit a WQMP shall provide

downstream channel erosion protection by capturing the channel protection volume (the runoff volume from the one (1) year frequency, twenty-four (24) hour storm) and discharging such volume over no less than a twenty-four (24) hour period using the design methods provided in the policy manual.

(2) Downstream channel erosion protection can be provided by an alternative approach in lieu of controlling the channel protection volume subject to prior approval by the director of engineering and public works, or his/her designee. Sufficient hydrologic and hydraulic analysis showing that the alternative approach will offer adequate channel protection from erosion must be presented in the WQMP. (1999 Code, § 19-708)

19-509. Requirement for submittal of a Special Pollutant Abatement Permit (SPAP). Technical requirements for the permit shall be based on the current policy manual subject to the approval of the director of engineering and public works, or his/her designee.

(1) Specific land uses are known to produce pollutants that are detrimental to water quality and would not be corrected by standard water quality treatment methods. A special pollution abatement permit is required to ensure that structural and management BMPs are used to control water quality for these uses and that the BMPs employed are designed to reduce the special pollutant to an acceptable level. Before the approval of structural stormwater treatment devices, the engineering and public works director, or his/her designee, may require valid documentation from full-scale testing by an independent third party to verify that the pollutants of concern will be properly controlled. A special pollution abatement permit will be valid for a period of five (5) years, at which point it must be renewed. At the time of renewal, any deficiency in the management method must be corrected. Any development that occurs without a required permit shall be a violation of this chapter of the code.

(2) A special pollution abatement permit shall be required for the following land uses:

(a) Vehicle, truck or equipment maintenance, fueling, washing or storage areas including, but not limited to, 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 parking 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; and

(f) Other producers of pollutants identified by the director of engineering and public works, or his/her designee, by information provided to, or collected by, him or his representatives, or reasonably

deduced or estimated by him or his representatives from engineering or scientific study. (1999 Code, § 19-709)

19-510. General requirements for water quality buffers. (1) All new developments or redevelopments that are required to submit a WQMP and/or record a plat shall establish, protect and maintain water quality buffers along all streams, rivers, lakes, ponds and wetlands located in the City of Maryville as set forth in this chapter and in the policy manual. Buffers shall be established, protected, and maintained for portions of waterbodies that are located in the City of Maryville. Any property, or portion thereof, that lies within the water quality buffer is subject to the requirements for the water quality buffer stated in this chapter, as well as any and all zoning restrictions that apply to the parcel as a whole.

(2) The water quality buffer shall be established, managed and maintained to protect the physical and ecological integrity of the buffered waterbody, to reduce the potential for flooding, provide tree canopy, stabilize streambanks and to filter runoff from developed areas. Management of the water quality buffer includes specific limitations on alteration of the natural conditions as set forth in this chapter and the policy manual.

(3) Except as otherwise provided in this chapter, the water quality buffer must be maintained in a use-restricted, undisturbed state in accordance with this chapter. The water quality buffer must meet, or have the ability to meet through vegetation improvement and growth, the minimum vegetative targets defined for the buffer in this chapter.

(4) Public or private property that is being developed or redeveloped for purposes of the City of Maryville greenway or linear park system is exempt from all water quality buffer requirements. (1999 Code, § 19-710)

19-511. Minimum width and vegetation standards for buffers on streams and rivers. (1) A water quality buffer having a minimum width of sixty feet (60') shall be provided along each side of a stream or river, as measured perpendicular from the top-of-bank of the active channel. For those streams that do not have a defined top-of-bank, the buffer shall be measured perpendicular from the centerline of the stream.

(2) The water quality buffer shall consist of two (2) zones, as follows:

(a) Inner zone. The inner zone of the water quality buffer shall have a minimum width of thirty feet (30'), measured perpendicular from the top-of-bank of the active channel and extending landward. Property owners are permitted and encouraged to establish an inner zone that has a width greater than thirty feet (30').

(b) Outer zone. The outer zone of the water quality buffer shall be measured from the edge of the inner zone and shall extend the perpendicular distance required to obtain a total minimum buffer width of sixty feet (60') when combined with the width in the inner zone.

(3) The minimum vegetative target for the inner zone is mature, moderately dense forest (i.e., trees) with woody shrubs and understory vegetation. Where forest vegetation has the potential to impact traffic safety or limit access, areas immediately surrounding approved stream crossings and utility access areas may be vegetated with dense grasses.

(4) The minimum vegetative target for the outer zone is mowed, dense grass that covers the entire zone.

(5) A variance for the width of the water quality buffer may be granted for water quality buffers located on streams and rivers through allowance of buffer width averaging; provided, that the following conditions are met:

(a) The average width of the entire buffer within the boundaries of the property to be developed shall not be less than sixty feet (60');

(b) The width of the buffer shall not be less than thirty feet (30') at any location, except where infrastructure encroachments and/or stream crossings have been approved by the director of engineering and public works, or his/her designee;

(c) Areas of the water quality buffer having a minimum width of thirty feet (30') (or less at infrastructure encroachments and stream crossings) can comprise no more than fifty percent (50%) of the buffer length; and

(d) Buffer width averaging is performed in accordance with policies stated in this chapter and the policy manual.

(6) Buffer width averaging is required for water quality buffers that have stream crossings and infrastructure encroachments.

(7) Buffer width averaging is prohibited for any portion of the development that has, or will have, after development the land uses described below:

(a) Areas that have slopes greater than fifteen percent (15%) that are located within fifty feet (50') of the stream to be buffered;

(b) Developments or facilities that include on-site sewage disposal and treatment system drainfields (i.e., septic systems), raised septic systems, subsurface discharges from a wastewater treatment plant, or land application of biosolids or animal waste;

(c) Landfills (demolition landfills, permitted landfills, close-in-place landfills);

(d) Junkyards;

(e) Commercial or industrial facilities that store and/or service motor vehicles;

(f) Commercial greenhouses or landscape supply facilities;

(g) Developments or facilities that have commercial or public pools;

(h) Agricultural facilities, farms, feedlots, and confined animal feed operations;

(i) Animal care facilities, kennels, and commercial/business developments or facilities that provide short-term or long-term care of animals; and

(j) Other land uses deemed by the director of engineering and public works, or his/her designee, to have the potential to generate higher than normal pollutant loadings. (1999 Code, § 19-711)

19-512. Minimum width and vegetation standards for buffers on ponds and lakes. (1) A water quality buffer having a minimum width of thirty feet (30') shall be provided around the perimeter of ponds and lakes that discharge water to, or receive discharges of water from, streams or rivers. The buffers shall be measured perpendicular from the topographic contour that defines the normal pool elevation.

(2) Water quality buffers are not required around the perimeter of ponds that are hydraulically disconnected from a stream or river, or around ponds that are newly designed and constructed for the purposes of meeting water quality treatment or channel protection requirements.

(3) The minimum vegetative target for water quality buffers on ponds and lakes is mowed, dense grass that covers the entire buffer area. (1999 Code, § 19-712)

19-513. Minimum width and vegetation standards for buffers on wetlands. (1) A water quality buffer having a minimum width of thirty feet (30') shall be provided around the perimeter of a wetland, as measured from the outermost edge of the wetland.

(2) Water quality buffers are not required for wetlands designed and constructed for the purposes of water quality treatment or channel protection.

(3) The minimum vegetative target for water quality buffers on wetlands is undisturbed, mature, moderately dense forest (i.e., trees) with woody shrubs and understory vegetation. (1999 Code, § 19-713)

19-514. Additional vegetation requirements for water quality buffers. (1) Except as otherwise provided in this chapter, the water quality buffer must be maintained in a vegetated state in accordance with the minimum vegetated targets defined for the buffer and the requirements of this section.

(2) Existing water quality buffer may be restored or improved in accordance with the requirements of this chapter without prior approval of a buffer enhancement plan by the director of engineering and public works, or his/her designee.

(3) Property owners of existing water quality buffers that have been disturbed or do not meet, or do not have the potential to meet through natural vegetative succession, the vegetative targets for buffer areas that are defined in this chapter shall be required to restore or improve the buffer area in accordance with this chapter.

(4) Vegetative improvement of water quality buffer areas shall be required for buffer areas that do not conform to the minimum vegetative target at the time of development or redevelopment. Inner zone areas that can be characterized as an early successional forest, consisting of a combination of grasses, vines, shrubs, tree saplings and possibly even a few mature trees, may not require vegetative improvement, provided that the vegetation appears healthy, provides adequate ground coverage, and consists largely of native and non-invasive species.

(5) Property owners of water quality buffer areas that require vegetative improvement shall submit a buffer enhancement plan prior to establishment of the buffer. The buffer enhancement plan shall be submitted to the director of engineering and public works, or his/her designee, for approval prior to establishment of the buffer with the WQMP and may be submitted as part of a larger landscaping plan.

(6) Buffer enhancement plans shall be prepared in accordance with the requirements set forth in the policy manual.

(7) Establishment of a water quality buffer must adhere to the following conditions:

(a) All areas/zones of the buffer being established must be planted, at a minimum, with vegetation that is appropriate to achieve the vegetative targets stated in this chapter.

(b) All areas/zones of the buffer being established must be stabilized against erosion.

(c) If the outer zone of a stream buffer and the buffer around a pond or a lake will consist largely of grasses after enhancement, seeding must be performed at a rate/density sufficient to provide healthy, dense, permanent vegetative cover for one hundred percent (100%) of the buffer area within one (1) growing season. Mulch, pebbles, wood chips and other non-vegetative ground cover is not acceptable for buffer enhancement.

(d) No trees shall be planted in a utility easement.

(e) No species may comprise more than one-third (1/3) of the total planted trees or shrubs.

(f) Seedlings/trees must be guaranteed at a seventy-five percent (75%) survivorship.

(g) Non-native species must be removed from the water quality buffer area. For water quality buffers on streams, where the removal of such vegetation would cause a reduction in the amount of stream canopy by fifty percent (50%) or more, revegetation with native plants is required to provide the cover of the previous canopy at a minimum. For areas where such vegetation removal would cause a reduction in the amount of streambank vegetation, revegetation with native plants is required to return the amount of vegetative cover to its previous state, at a minimum. To reduce the potential for streambank erosion, revegetation measures along streambanks must include sufficient erosion control

measures, such as turf reinforcement mats, erosion control blankets, and straw wattles, etc., to stabilize the area in the short- and long-term.

(h) To increase the chances for the success and health of the buffer area, the plant species, density, placement, and diversity proposed in buffer enhancement plans must be appropriate for stream, wetland, and pond/lake buffers to achieve the vegetative target that is defined for the buffer through natural succession, given the local site conditions and use of the upland property. Proposed planting and long-term maintenance practices must also be appropriate and performed properly.

(i) Vegetation mortality must be accounted for all planting densities that are proposed in buffer enhancement plans.

(8) One (1) year after completion of the restoration or enhancement activity, the portion of the performance bond related to the buffer enhancement plan can be released; provided, that the buffer area has been restored or enhanced as required, that soils within the buffer area are stable and not eroding, and that buffer vegetation is healthy and growing as expected. (1999 Code, § 19-714)

19-515. Requirements for steep slopes in water quality buffer areas. Where steep slopes of fifteen percent (15%) or greater are located within fifty feet (50') of the water body, one (1) of the following conditions shall apply:

(1) The water quality buffer width in the steep slope area shall be adjusted to include an additional twenty feet (20'), giving a total buffer width of eighty feet (80'). At a minimum, the additional twenty feet (20') shall meet the vegetation target of mowed, dense grass that covers the entire additional area.

(2) The water quality buffer in the steep slope area shall have a minimum width of sixty feet (60') and follow the inner zone criteria. (1999 Code, § 19-715)

19-516. Activities within the water quality buffer. (1) The following activities or land uses are prohibited within the water quality buffer:

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

(b) All types of impervious surfaces, structures, buildings, storage facilities and other accessories;

(c) Vehicle storage and maintenance;

(d) Waste storage areas, dumpsters, grease bins;

(e) Septic tanks and septic drain fields;

(f) Hazardous sanitary waste landfills;

(g) Receiving areas for toxic or hazardous waste or other containments;

(h) Mining;

(i) Animal lots or kennels; and

(j) Other activities or uses that are known to contribute pollutants to waterways.

(2) Facilities used for stormwater quantity or quality management, and/or for channel erosion protection may be located within the water quality buffer area; provided, such facilities are approved by the director of engineering and public works, or his/her designee.

(3) The following activities are allowed within the inner zone of water quality buffers on streams and within water quality buffers on wetlands:

(a) Maintenance activities to remove trees or other vegetation if they are in danger of falling, causing damage to dwellings or other structures, causing blockage of the stream, standing in the path of an approved water, sanitary sewer, or storm main. The roots of a tree that are penetrating, or in danger of penetrating, a sewer, water or storm drainage line at a joint or pipe connection may be removed, however the root wad or stump should be left in place, where feasible, to maintain soil stability.

(b) Maintenance activities to prune native vegetation; provided, that the health and function of the vegetation is not compromised.

(c) Maintenance activities to remove non-native vegetation (i.e., honeysuckle, kudzu, privet) and re-vegetated with native species; provided, that such activities cause minimal soil disturbance is permitted and the requirements of § 19-514(7) are met.

(d) Disturbances as required to establish and/or restore buffer areas in accordance with an approved buffer enhancement plan.

(e) Stormwater management facilities that do not detract from the buffer meeting the minimum vegetative target for the buffer area and will allow the buffer area to meet its intended purposes as stated in § 18-1010.

(f) Infrastructure such as roads, bridges, storm drainage, and utilities; provided, that they adhere to the following standards:

(i) The width shall be kept to the minimum width needed to allow for maintenance access and installation;

(ii) The crossing shall be at an angle that minimizes clearing requirements;

(iii) The minimum number of crossings should be used within each development, with no more than one (1) crossing every one thousand (1,000) linear feet. The director of engineering and public works, or his/her designee, may approve additional crossings if justified by traffic, safety, or access issues.

(iv) Access areas for utilities that are located in the water quality buffer shall be allowed. Access areas must be minimized to the extent possible and shall be located no less than four hundred feet (400') apart unless warranted by valid safety, access, or service issues.

(g) Pathways, trails and picnic areas, provided that no impervious surfaces are used and the design and location of such areas are approved by the City of Maryville.

(h) Removal of forest vegetation that has the potential to impact traffic safety or limit access to areas immediately surrounding the approved stream or utility crossing. The area shall be vegetated with a minimum of dense grass.

(i) Bank stabilization, stream restoration or habitat alteration projects and other activities permitted and approved by TDEC or under § 404 of the Federal Clean Water Act, being 42 U.S.C. § 7651c. The buffer area must be re-vegetated in accordance with the requirements of this chapter immediately after the project is complete. Such project must include sufficient erosion control measures, such as turf reinforcement mats, erosion control blankets, straw wattles, etc., to stabilize the area in the short- and long-term.

(j) Education activities and scientific research that do not require any prohibited activities identified in this section.

(4) The following activities are allowed within the outer zone of the water quality buffers on streams and rivers, and within water quality buffers on ponds and lakes.

(a) All activities that are allowed within the inner zone;

(b) Land disturbance and grading; provided, that the buffer area is re-vegetated in accordance with the requirements of this chapter immediately after the project is complete. A buffer enhancement plan must be submitted and approved for land disturbance and grading projects that require a grading permit prior to approval of the grading permit;

(c) Clearing, grubbing, grading and re-vegetation, performed in accordance with an approved grading plan;

(d) Disturbances necessary for the construction of utility access areas and approved stream crossings;

(e) On-going vegetative maintenance activities such as mowing, bush-hogging, and weed-eating; and

(f) The limited application of herbicides and fertilizers for purposes of vegetation removal and management is allowed. Herbicides and fertilizers used must be non-toxic, biodegradable, and safe for humans, animals and the environment. (1999 Code, § 19-716, modified)

19-517. The protection of water quality buffers during construction. (1) Unless otherwise provided in this chapter, all water quality buffer areas shall remain protected from land disturbance, vegetation removal, construction of impervious surfaces, and discharges of sediment and other construction-related wastes during development activities.

(2) Water quality buffers shall be clearly identified on all construction drawings, and marked with the statement "Water quality buffer. Do not disturb."

(3) The entire perimeter of water quality buffer areas must be clearly marked at the site of development or redevelopment prior to the initiation of land disturbing activities. A combination of stakes, flagging, silt fence and/or orange construction fence may be used to ensure adequate visibility of the water quality buffer perimeter. The perimeter markings must be inspected and approved by the director of engineering and public works, or his/her designee, prior to approval of a grading permit.

(4) Water quality buffers cannot be encroached upon or disturbed during project construction, unless they are being established, restored, or enhanced in accordance with an approved buffer enhancement plan.

(5) All areas of the water quality buffer, including streambanks, shall be left in a stabilized condition upon completion of construction activities. No actively eroding, bare or unstable areas shall remain. (1999 Code, § 19-717)

19-518. The protection and maintenance of water quality buffers after construction. (1) Once construction has ceased on a project, water quality buffers must be maintained in accordance with the recorded covenants for maintenance of water quality best management practices. The covenants shall require that maintenance of the water quality buffer be the responsibility of the property owner.

(2) In order to provide for long-term protection and maintenance, the City of Maryville shall require that the water quality buffer be protected in perpetuity by placing the buffer in a permanent water quality or other easement that is recorded with the property's deed.

(3) Permanent boundary markers, in the form of signage approved or provided by the director of engineering and public works, or his/her designee, may be required prior to recording of the final plat, and the issuance of a certificate of occupancy. The director of engineering and public works, or his/her designee, has the authority to require replacement of permanent boundary markers that have been removed or destroyed. (1999 Code, § 19-718)

19-519. Plats prepared for recording. Unless otherwise provided herein, all site development plans and plats prepared for recording shall:

(1) Show the extent of all water quality buffers on the subject property by metes and bounds, and be labeled as "water quality buffer;" and

(2) Provide a note with reference to the water quality buffer stating that there shall be no clearing, grading, construction or disturbance of vegetation except as permitted by the City of Maryville. (1999 Code, § 19-719)

19-520. Conflicts with state requirements for buffer areas. The State of Tennessee may require water quality buffers during construction

activities via provisions contained in the Tennessee Construction General Permit (CGP) or other regulatory permits and processes. The state's requirements may, or may not, align with the City of Maryville's requirements and policies for water quality buffers. It is the responsibility of the site developer to be informed about, and follow the requirements of, any state-level buffer requirements. If the State of Tennessee and Maryville buffer requirements differ, the more stringent requirement shall apply. (1999 Code, § 19-720)

19-521. Performance bond. (1) Prior to plat approval, a performance bond which guarantees satisfactory completion of construction work related to BMPs and/or the establishment of water quality buffers may be required for a period of two (2) years.

(2) Performance bonds shall name the City of Maryville 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 of engineering and public works, or his/her designee. The actual amount shall be based on submission of plans and estimated construction, installation or potential maintenance and/or remediation expenses.

(3) The director of engineering and public works, or his/her designee, 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. (1999 Code, § 19-721)

19-522. 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 of engineering and public works, or his/her designee, no later than sixty (60) calendar days after issuance of the permit. (1999 Code, § 19-722)

19-523. As-built drawings. (1) Prior to the release of a bond, as-built drawings shall be provided to the director of engineering and public works, or his/her designee, certifying that all BMPs comply with the design shown on the approved WQMP(s). Features such as the location and elevation of structural BMPs, boundaries of vegetated buffers and water quality volume reduction areas shall be provided to verify approved plans. Other contents of the record drawings must be provided in accordance with guidance provided in the policy manual.

(2) As-built drawings shall include sufficient design information to show that the BMPs required by this chapter will operate as approved. This

shall include all necessary computations used to determine percent pollutant removal and the flow rates and treatment volumes required to size BMPs.

(3) The as-built drawings shall be stamped by the appropriate design professional required to stamp the WQMP, as stated in § 19-506 of this chapter, and a registered land surveyor licensed to practice in the State of Tennessee. The engineer shall certify that the as-built conditions will meet all water quality requirements, and the surveyor shall certify the accuracy and completeness of the survey. (1999 Code, § 19-723)

19-524. Right of entry. (1) The director of engineering and public works, or his/her designee, may enter upon any property that discharges or contributes, or is believed to discharge or contribute, to stormwater runoff or the stormwater system; stream; natural drainageway; or other stormwater system during reasonable hours to monitor, remove foreign objects or blockages, and to inspect for compliance with the provisions of this chapter.

(2) 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 of engineering and public works, or his/her designee, onto a property for the purposes set forth in § 19-523 shall be cause for the issuance of a stop work order, withholding of a certificate of occupancy, and/or civil penalties, fines and/or damage assessments in accordance with §§ 19-533 through 19-535 of this chapter. (1999 Code, § 19-724)

19-525. Inspection and maintenance. (1) The owner(s) of BMPs, water quality buffers and/or water quality volume reduction areas, or his/her designee, shall, at regular and appropriate frequencies, inspect and properly operate and maintain all BMPs, water quality buffers and/or water quality volume reduction areas in such manner as to maintain their full and intended function. Inspection and maintenance of privately-owned BMPs, water quality buffers and water quality volume reduction areas shall be performed at the sole cost and expense of the owner(s) of such features.

(2) Inspections and maintenance shall be performed in accordance with the requirements provided in the policy manual. The director of engineering and public works, or his/her designee, has the authority to impose more stringent inspection and maintenance requirements as necessary for purposes of water quality protection and public safety.

(3) Inspection and maintenance activities shall be documented by the property owner, or his/her designee. Such documentation shall be maintained by the property owner for a minimum of three (3) years, and shall be made available for review by the director of engineering and public works, or his/her designee

(4) Prior to release of the performance bond, the property owner shall provide the City of Maryville with an accurate as-built drawing of the property and an executed covenant for all BMPs, water quality buffers and water quality

reduction areas. The property owner shall record these items with the Blount County Register of Deeds. The location of the BMPs, water quality buffers, and water quality volume reduction areas, and the easements associated with each of these features, shall be shown on a plat that is also recorded with the Blount County Register of Deeds.

(5) The removal of sediment and other debris from BMPs shall be performed in accordance with all City of Maryville, state and federal laws. Guidelines for sediment removal and disposal are referenced in the policy manual. The director of engineering and public works, or his/her designee, may stipulate additional guidelines if deemed necessary for public safety.

(6) This chapter does not authorize access to neighboring private property by the owner of BMPs, water quality buffers, or water quality volume reduction 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. (1999 Code, § 19-725)

19-526. Corrective actions. The director of engineering and public works may order the property owner, or his/her designee, to perform corrective actions to BMPs, water quality buffer areas or water quality volume reduction areas as necessary to properly maintain the full and intended function of the features for the purposes of water quality treatment, channel erosion protection, or water quality volume reduction, to ensure adherence to local performance standards, and ensure public safety. If the property owner, or his/her designee, fails to perform corrective actions, the city manager, or his/her designee, shall have the authority to order the corrective actions 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 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 Maryville is authorized to file a lien for said costs against the property and to enforce the lien by judicial foreclosure proceedings. (1999 Code, § 19-726)

19-527. Feature integrity. Any alteration, improvement, or disturbance to BMPs, water quality buffers, or water quality volume reduction areas that are shown in certified as-built drawings shall be prohibited without authorization from the director of engineering and public works, or his/her designee. This does not include alterations or repairs that must be made in order to maintain the full and intended function of the BMPs, water quality buffer areas, or water quality volume reduction areas. (1999 Code, § 19-727)

19-528. Conflict and severability. (1) 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 regulation conflict or overlap, that provision which is more restrictive or imposes higher standards or requirements shall prevail. It is required that the director of engineering and public works, or his/her designee, be advised of any such regulatory conflicts upon submittal of a WQMP.

(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. (1999 Code, § 19-728)

19-529. Responsibility. This chapter does not imply a warranty or the assumption of responsibility on the part of the City of Maryville 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 Maryville to design any structure or facility. (1999 Code, § 19-729)

19-530. Enforcement during construction. (1) The requirements of this chapter shall be enforced by the director of engineering and public works, or his/her designee, who shall inspect all the work, grading or construction involved. Failure to properly install or maintain BMPs, water quality buffer areas, or water quality volume reduction areas as specified on the approved WQMP will result in the following actions:

(a) First offense. Written requirement for corrective action that includes a deadline for compliance. If conditions warrant, a stop work order will be immediately issued. Corrective actions will be in accordance with § 19-526.

(b) Second offense. A notice of violation, a stop work order and suspension of all city inspections until the violation is corrected.

(c) Third offense. 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.

(d) 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 or building permit granted may also be suspended.

(2) All stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred and the director of engineering and public works, or his/her designee, has approved the corrective action. Such notice shall be in writing and shall be given to the owner of the property, or 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. (1999 Code, § 19-730)

19-531. Enforcement after construction. The requirements of this chapter shall be enforced by the director of engineering and public works, or his/her designee, who shall inspect the BMPs, water quality buffers and water quality volume reduction areas at regular and appropriate intervals. Failure to properly maintain BMPs, water quality buffer areas, or water quality volume reduction areas 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 § 19-526. 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 Maryville. (1999 Code, § 19-731)

19-532. Variances. The director of engineering and public works, or his/her designee, may waive or modify any of the general 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:

(1) At the time of plan submission, an applicant may request variances to become part of the approved WQMP. 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 WQMP.

(2) During construction, a permit holder may request variances to the approved WQMP. 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 WQMP as originally approved.

Absent universal circumstances, a response to the variance request should be given by the city within ten (10) working days. Without a written approval, no variance shall be considered valid. (1999 Code, § 19-732)

19-533. Unlawful acts. Any person who does the following 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: (1) Violates any provision of this chapter;

(2) Violates the provisions of any permit issued pursuant to this chapter;

(3) Fails or refuses to comply with any lawful notice to abate issued by the director of engineering and public works, or his/her designee, which has not

been timely appealed to the development standards board of appeals, within the time specified by such notice; or

(4) Violates any lawful order of the city or the development standards board of appeals within the time allowed by such order. (1999 Code, § 19-733)

19-534. Notice of violation. Whenever the director of engineering and public works, or his/her designee, determines that a violation of any provision of this chapter has occurred, the director of engineering and public works, or his/her designee, 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 doing work on the site of the land-disturbing activity. The notice of violation shall:

- (1) Be in writing;
- (2) Include a description of the property sufficient for identification of where the violation has occurred;
- (3) List the violation;
- (4) State the action required; and
- (5) Provide a deadline for compliance or to stop work. (1999 Code, § 19-735)

19-535. Judicial proceedings and relief. (1) The city attorney may initiate proceedings seeking legal and/or equitable relief in any court of competent jurisdiction against any person who has, or is making, substantial steps towards:

- (a) Violating the provisions of this chapter;
 - (b) Violating the provisions of any permit issued pursuant to this chapter;
 - (c) Failing or refusing to comply with any lawful order issued by the engineer, which has not been timely appealed to the development standards board of appeals within the time allowed by this chapter; or
 - (d) Violating any lawful order of the development standards board of appeals within the time allowed by such order.
- (2) 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. (1999 Code, § 19-736)

19-536. Appeals. Appeal or review of a civil penalty or damage assessment under this section may be made to the City Council of the City of Maryville by any person incurring a damage assessment or civil penalty. Such review shall be requested within thirty (30) days after the damage assessment or civil penalty is served by filing a written notice of appeal with the city manager's office. If a petition for review of such damage assessment or civil penalty is not filed within thirty (30) days after the damage assessment or civil penalty 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. The alleged violator may appeal a decision of the city council, pursuant to the provisions of state law found in *Tennessee Code Annotated*, title 27, chapter 8. Upon receipt of an appeal, the city council shall hold a public hearing within sixty (60) days or a later date mutually agreed up on by both parties. Ten (10) days' prior, notice of the time, date and location of said hearing shall be published in the *Maryville-Alcoa Daily Times* or its equivalent local paper. Ten (10) days' notice shall be provided to the aggrieved party at the address provide at the time of the appeal. (1999 Code, § 19-737)

19-537. 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 appropriated for the administration of the city's stormwater program. (1999 Code, § 19-738)

19-538. Violations and penalty. (1) Any person violating the provisions of this chapter shall be guilty of a misdemeanor and punished as provided in the general provisions of the city code. Each day that a continuing violation of this chapter is maintained or permitted to remain shall constitute a separate offense.

(2) 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. The city may also recover all damages proximately caused to the city by such violation.

(3) In assessing the civil penalty, the city may consider:

- (a) The harm done to the public health or the environment;
- (b) Whether the civil penalty imposed will be of substantial economic detriment to the illegal activity;
- (c) The economic benefit gained by the violator;
- (d) The amount of effort put forth by the violator to remedy this violation;
- (e) Any unusual or extraordinary enforcement costs incurred by the municipality;
- (f) The amount of penalty established by ordinance or resolution for specific categories for violations; and
- (g) All equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(4) In addition to the civil penalty in subsection (3) 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.

(5) 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.

(6) The remedies set forth in this section shall be cumulative, not exclusive, and is 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. (1999 Code, § 19-734)