

## TITLE 19

### STORMWATER<sup>1</sup>

#### CHAPTER

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#### CHAPTER 1

### LAND DEVELOPMENT AND PUBLIC WORKS STANDARDS<sup>2</sup>

#### SECTION

- 19-101. Adoption of standards.  
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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. (1985 Code, § 4-1201)

**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 days prior to the passage of this chapter. (1985 Code, § 4-1202)

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<sup>1</sup>This title was created in conjunction with Change 8, April 1, 2008.

<sup>2</sup>See Ord. #88-1, and any amendments thereto, of record in the recorder's office, for The Land Development Regulations of Maryville, Tennessee.

**19-103. Violations.** 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, 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. Pursuant of one 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. (1985 Code, § 4-1203; as replaced by Ord. #2006-27, May 2006)

## CHAPTER 2

### FLOODPLAIN ZONING ORDINANCE

#### SECTION

- 19-201. Statutory authorization.
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**19-201. Statutory authorization.** The Legislature of the State of Tennessee has in Tennessee Code Annotated, §§ 13-7-201 through 13-7-210 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. (as added by Ord. #2007-24, July 2007, and replaced by Ord. #2010-01, Jan. 2010)

**19-202. Findings of fact.** (1) The Council of the City of Maryville wishes to maintain eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 60.3 of the Federal Insurance Administration Regulations found at 44 CFR ch. 1 (10-1-04 edition).

(2) Areas of Maryville are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(3) Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, flood-proofed, or otherwise unprotected from flood damages. (as added by Ord. #2007-24, July 2007, and replaced by Ord. #2010-01, Jan. 2010)

**19-203. Statement of purpose.** It is the purpose of this ordinance to promote the public health, safety and general welfare, and to minimize public

and private losses due to flood conditions in specific areas. This ordinance is designed to:

- (1) Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;
- (2) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation floodwaters;
- (4) Control filling, grading, dredging and other development which may increase flood damage or erosion; and
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands. (as added by Ord. #2007-24, July 2007, and replaced by Ord. #2010-01, Jan. 2010)

**19-204. Objectives.** The objectives of this ordinance are:

- (1) To protect human life, health and property;
- (2) To minimize expenditure of public funds for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodable areas;
- (6) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize blight in flood areas;
- (7) To ensure that potential homebuyers are notified that property is in a floodable area; and
- (8) To maintain eligibility for participation in the National Flood Insurance Program. (as added by Ord. #2007-24, July 2007, and replaced by Ord. #2010-01, Jan. 2010)

**19-205. Definitions.** Unless specifically defined below, words or phrases used in this ordinance shall be interpreted as to give them the meaning they have in common usage and to give this ordinance its most reasonable application given its stated purpose and objectives.

- (1) "Accessory structure" shall represent a subordinate structure to the principal structure and, for the purpose of this section, shall conform to the following:
  - (a) Accessory structures shall not be used for human habitation.

(b) Accessory structures shall be designed to have low flood damage potential.

(c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

(d) Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures.

(e) Service facilities such as electrical and heating equipment shall be elevated or flood-proofed.

(2) "Act" means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. 4001-4128.

(3) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load bearing wall other than a fire wall Any walled and roofed addition which is connected by a fire wall or is separated by an independent perimeter load-bearing wall shall be considered "new construction."

(4) "Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this ordinance or a request for a variance.

(5) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one to three feet (1' – 3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. (Such flooding is characterized by ponding or sheet flow.)

(6) "Area of special flood-related erosion hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

(7) "Area of special flood hazard" is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into zones A, AO, AH, A1-30, AE or A99.

(8) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year.

(9) "Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

(10) "Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

(11) "Building" means any structure built for support, shelter, or enclosure for any occupancy or storage (see "structure").

(12) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.

(13) "Development permit" means any number of permits which are issued for specific phases of a project including but not limited to the following: grading permits; site plan approval; or building permits and elevation certifications. Site plan approval process can be found in the Maryville Zoning and Land Use Ordinance.

(14) "Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

(15) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

(16) "Erosion" means the process of the gradual wearing away of land masses. This peril is not per se covered under the program.

(17) "Exception" means a waiver from the provisions of this ordinance which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this ordinance.

(18) "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP).

(19) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP).

(20) "Existing structures" see "existing construction."

(21) "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including

the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

(22) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters;

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(23) "Flood elevation determination" means a determination by the administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.

(24) "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

(25) "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of areas of special flood hazard have been designated as Zone A.

(26) "Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by the Federal Emergency Management Agency, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

(27) "Flood insurance study" is the official report provided by the Federal Emergency Management Agency, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

(28) "Floodplain" or "floodprone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding") and shall be that area referenced on the FEMA flood boundary and floodway maps which are hereby part of the floodway district referenced and part of the Maryville Zoning and Land Use Ordinance.

(29) "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

(30) "Flood protection system" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

(31) "Flood-proofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or

eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

(32) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

(33) "Flood-related erosion area" or "flood-related erosion prone area" means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

(34) "Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and flood plain management regulations.

(35) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The area designed as "flooding" and referenced on the FEMA flood boundary maps and flood insurance rate maps are hereby made part of the floodway district referenced and part of the Maryville Zoning and Land Use Ordinance.

(36) "Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

(37) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings and the hydrological effect of urbanization of the watershed.

(38) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

(39) "Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

(40) "Historic structure" means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;

(c) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

(i) By an approved state program as determined by the Secretary of the Interior; or

(ii) Directly by the Secretary of the Interior.

(41) "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

(42) "Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

(43) "Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

(44) "Manufactured home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle," unless such transportable structures are placed on a site for one hundred eighty (180) consecutive days or longer.

(45) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

(46) "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the agency.

(47) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD) or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

(48) "National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

(49) "New construction" means any structure for which the "start of construction" commenced after the effective date of this ordinance or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

(50) "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed after the effective date of this ordinance or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

(51) "North American Vertical Datum (NAVD)" as corrected in 1988 is a vertical control used as a reference for establishing varying elevations within the floodplain.

(52) "100-year flood" see "base flood."

(53) "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

(54) "Recreational vehicle" means a vehicle which is:

- (a) Built on a single chassis;
- (b) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(55) "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(56) "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

(57) "Special hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

(58) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(59) "State coordinating agency." The Tennessee Department of Environment and Conservation as designated by the State of Tennessee.

(60) "Stormwater program manager" means the City of Maryville engineer or other person as appointed by the city manager and is referred to as administrator in this document.

(61) "Structure," for purposes of this section, means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

(62) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(63) "Substantial improvement" means any repairs, reconstructions, rehabilitations, additions, alterations or other improvements to a structure, taking place during a five (5) year period, in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. The market value of the structure should be:

(a) The appraised value of the structure prior to the start of the initial repair or improvement; or

(b) In the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed.

For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project; or

(b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(64) "Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

(65) "Variance" is a grant of relief from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

(66) "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

(67) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas. (as added by Ord. #2007-24, July 2007, replaced by Ord. #2010-01, Jan. 2010, and amended by Ord. #2016-29, Nov. 2016)

**19-206. General provisions.** (1) Application. This ordinance shall apply to all areas within the incorporated area of Maryville, Tennessee where applicable. The area designed and shown on the FEMA flood boundary and floodway maps and referenced in section (2) of this section shall also be designated as the floodway district referenced in the Maryville Zoning and Land Use Ordinance, as amended, and Maryville Subdivision Regulations, as amended.

Further, it is the intent of these provisions to supplement and complement those rules and regulations found in both the Maryville Zoning and Land Use Ordinance, as amended, and the Maryville Subdivision Regulations,

as amended. These documents are in full force and effect and can be found in the planning office or City Recorder's Office of the City of Maryville.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the Maryville, Tennessee, Federal Emergency Management Agency, Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), map number 47009CINDOC, community number 470439, panel numbers 0119, 0120, 0137, 0138, 0139, 0143, 0232, 0234, 0235, 0251, 0253, 0254, and 0275, dated September 19, 2007, along with the following panels 0115, 0141, 0142, 0144, 0165, 0250 dated September 17, 2007 and all supporting technical data, are adopted by reference and declared to be a part of this ordinance.

(3) Requirement for development permit. A development permit shall be required in conformity with this ordinance prior to the commencement of any development activities.

(4) Compliance. No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

(5) Abrogation and greater restrictions. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

(6) Interpretation. In the interpretation and application of this ordinance, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Maryville, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder. (as added by Ord. #2007-24, July 2007, and replaced by Ord. #2010-01, Jan. 2010)

**19-207. Designation of ordinance administrator.** The stormwater program manager, or his designee is hereby appointed as the administrator to implement the provisions of this ordinance. (as added by Ord. #2007-24, July 2007, and replaced by Ord. #2010-01, Jan. 2010)

**19-208. Permit procedures.** Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities.

(1) Application stage. (a) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where BFEs are available, or to the highest adjacent grade when applicable under this ordinance.

(b) Elevation in relation to mean sea level to which any non-residential building will be flood-proofed where BFEs are available, or to the highest adjacent grade when applicable under this ordinance.

(c) Design certificate from a registered professional engineer or architect that the proposed non-residential flood-proofed building will meet the flood-proofing criteria in this section.

(d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(2) Construction stage. Within unnumbered A zones, where flood elevation data is not available, the administrator shall record the elevation of the lowest floor on the development permit. The elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the regulatory floor elevation or flood-proofing level upon the completion of the lowest floor or flood-proofing. Within unnumbered A zones, where flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a registered land surveyor and certified by same. When flood-proofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a professional engineer or architect and certified by same.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project. (as added by Ord. #2007-24, July 2007, and replaced by Ord. #2010-01, Jan. 2010)

**19-209. Duties and responsibilities of the administrator.** Duties of the administrator shall include, but not be limited to:

(1) Review of all development permits to assure that the permit requirements of this ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.

(2) Advice to permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit. This shall include section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(3) Notification to adjacent communities and the Tennessee Department of Environment and Conservation prior to any alteration or relocation of a watercourse, and submission of evidence of such notification to the Federal Emergency Management Agency.

(4) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the Federal Emergency Management Agency to ensure accuracy of community flood maps through the letter of map revision process. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(5) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable of the lowest floor including basement of all new or substantially improved buildings, in accordance with § 19-208.

(6) Record the actual elevation; in relation to mean sea level or the highest adjacent grade, where applicable to which the new or substantially improved buildings have been flood-proofed, in accordance with § 19-208.

(7) When flood-proofing is utilized for a structure, the administrator shall obtain certification of design criteria from a registered professional engineer or architect, in accordance with § 19-208.

(8) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance.

(9) When base flood elevation data or floodway data have not been provided by the Federal Emergency Management Agency then the administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the community FIRM meet the requirements of this ordinance.

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or flood-proofed to a level of

at least three feet (3') above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 19-205 of this ordinance). All applicable data including elevations or flood-proofing certifications shall be recorded as set forth in § 19-208.

(10) All records pertaining to the provisions of this ordinance shall be maintained in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files. (as added by Ord. #2007-24, July 2007, replaced by Ord. #2010-01, Jan. 2010, and amended by Ord. #2016-29, Nov. 2016)

**19-210. Provisions for flood hazard reduction.** (1) General standards. In all flood prone areas the following provisions are required:

(a) New construction and substantial improvements to existing buildings shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(b) Manufactured homes shall be elevated and anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;

(c) New construction and substantial improvements to existing buildings shall be constructed with materials and utility equipment resistant to flood damage;

(d) New construction or substantial improvements to existing buildings shall be constructed by methods and practices that minimize flood damage;

(e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance; and

(j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this ordinance, shall be undertaken only if said nonconformity is not further extended or replaced.

(2) Specific standards. These provisions shall apply to all areas of special flood hazard as provided herein:

(a) Residential construction. Where base flood elevation data is available, new construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than two feet (2') above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls and to ensure unimpeded movement of floodwater shall be provided in accordance with the standards of this subsection.

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or flood-proofed to a level of at least three feet (3') above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 19-205 of this ordinance). All applicable data including elevations or flood-proofing certifications shall be recorded as set forth in § 19-208.

(b) Non-residential construction. New construction or substantial improvement of any commercial, industrial, or non-residential building, when BFE data is available, shall have the lowest floor, including basement, elevated or flood-proofed no lower than two feet (2') above the level of the base flood elevation.

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or flood-proofed to a level of at least three feet (3') above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 19-205 of this ordinance). All applicable data including elevations or flood-proofing certifications shall be recorded as set forth in § 19-208.

Buildings located in all A zones may be flood-proofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 19-208.

(c) **Elevated building.** All new construction or substantial improvements to existing buildings that include any fully enclosed areas formed by foundation and other exterior walls below the base flood elevation, or required height above the highest adjacent grade, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

(i) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria.

(A) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

(B) The bottom of all openings shall be no higher than one foot (1') above the finish grade; and

(C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(ii) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the elevated living area (stairway or elevator); and

(iii) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms in such a way as to impede the movement of floodwaters and all such petitions shall comply with the provisions of § 19-210(2) of this ordinance.

(d) **Standards vehicles for manufactured homes and recreational.** (i) All manufactured homes placed, or substantially improved, on:

(A) Individual lots or parcels;

(B) In expansions to existing manufactured home parks or subdivisions; or

(C) In new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction, including elevations and anchoring.

(ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:

(A) When base flood elevations are available the lowest floor of the manufactured home is elevated on a permanent foundation no lower than two feet (2') above the level of the base flood elevation; or

(B) Absent base flood elevations the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements) at least three feet (3') in height above the highest adjacent grade.

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood or that has substantially improved, must meet the standards of § 19-210(2)(d) of this ordinance.

(iv) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(v) All recreational vehicles placed on identified flood hazard sites must either:

(A) Be on the site for fewer than one hundred eighty (180) consecutive days;

(B) Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions.

(C) The recreational vehicle must meet all the requirements for new construction, including the anchoring and elevation requirements of this section above if on the site for longer than one hundred eighty (180) consecutive days.

(e) Standards for subdivisions. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to ensure that:

(i) All subdivision proposals shall be consistent with the need to minimize flood damage.

(ii) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(iii) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including manufactured home parks and subdivisions) that are greater than fifty (50) lots and/or five (5) acres in area.

(3) Standards for areas of special flood hazard with established base flood elevations and with floodways designated. Located within the areas of

special flood hazard established in § 19-206(2) are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other developments within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development, when combined with all other existing and anticipated development, shall not result in any increase the water surface elevation of the base flood level, velocities or floodway widths during the occurrence of a base flood discharge at any point within the community. A registered professional engineer must provide supporting technical data and certification thereof.

(b) New construction or substantial improvements of buildings shall comply with all applicable flood hazard reduction provisions of § 19-210.

(4) Standards for areas of special flood hazard zones AE with established base flood elevations but without floodways designated. Located within the areas of special flood hazard established in § 19-206(2), where streams exist with base flood data provided but where no floodways have been designated, (zones AE) the following provisions apply:

(a) No encroachments, including fill material, new structures or substantial improvements shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(b) New construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with § 19-210(2).

(5) Standards for streams without established base flood elevations or floodways (A zones). Located within the areas of special flood hazard established in § 19-206, where streams exist, but no base flood data has been provided (A zones), or where a floodway has not been delineated, the following provisions shall apply:

(a) When base flood elevation data or floodway data have not been provided in accordance with § 19-206, then the administrator shall obtain, review and reasonably utilize any scientific or historic base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of § 19-210. Only if data is not available from these sources, then the following provisions (b) and (c) shall apply:

(b) No encroachments, including structures or fill material, shall be located within sixty feet (60') of the stream bank, measured from the top of bank unless certification by registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(c) In special flood hazard areas without base flood elevation data, new construction or substantial improvements of existing shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three feet (3') above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of § 19-210(2), and "elevated buildings."

(6) Standards for areas of shallow flooding (AO and AH zones).

Located within the areas of special flood hazard established in § 19-206(2), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1' – 3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

(a) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least two feet (2') above the flood depth number specified on the Flood Insurance Rate Map (FIRM), in feet, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated, at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of § 19-210(2), and "elevated buildings."

(b) All new construction and substantial improvements of non-residential buildings may be flood-proofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be flood-proofed and designed watertight to be completely flood-proofed to at least two feet (2') above the specified FIRM flood level, with walls substantially impermeable to the passage of water and with structural

components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified, the lowest floor, including basement, shall be flood-proofed to at least three feet (3') above the highest adjacent grade. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this ordinance and shall provide such certification to the administrator as set forth above and as required in § 19-208.

(c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(d) The administrator shall certify the elevation or the highest adjacent grade, where applicable, and the record shall become a permanent part of the permit file.

(7) Standards for areas protected by flood protection system (A-99 zones). Located within the areas of special flood hazard established in § 19-206 are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations and flood hazard factors have not been determined. Within these areas (A-99 zones) all provisions of §§ 19-207 through 19-210(1) shall apply.

(8) Standards for unmapped streams. Located within Maryville, Tennessee are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams the following provisions shall apply:

(a) In areas adjacent to such unmapped streams, no encroachments including fill material or structures shall be located within sixty feet (60') of the stream bank, measured from the top of bank unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality.

(b) When new elevation data is available, new construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with § 19-207. (as added by Ord. #2007-24, July 2007, and replaced by Ord. #2010-01, Jan. 2010)

**19-211. Review and variance procedures.** (1) Board of zoning appeals. The provisions of this section shall apply exclusively to areas of special flood hazard areas. An appeal to the board of zoning appeals may be taken by any person, firm or corporation aggrieved or by any governmental offices, department, or bureau affected by any decision of the administrator based on whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the board of zoning appeals a notice of appeal, specifying the

grounds thereof. Processes and procedures for hearing the appeal are outlined in the Maryville Zoning and Land Use Ordinance.

The board of zoning appeals has been created and established by the Council of the City of Maryville under authority granted in Tennessee Code Annotated, § 13-7-207. Specific powers and authority of the board of zoning appeals are found in the Maryville Zoning and Land Use Ordinance.

(a) Administrative review. The City of Maryville Board of Zoning Appeals shall hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the administrator or other administrative official in the carrying out or enforcement of any provision or regulation of this ordinance.

(b) Variance procedures. In the case of a request for a variance the following shall apply:

(i) The City of Maryville, Tennessee Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(ii) Variances may be issued for the repair or rehabilitation of historic structures (see definition) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.

(iii) In passing upon such applications, the board of zoning appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance; and

(A) The danger that materials may be swept onto other property to the injury of others;

(B) The danger to life and property due to flooding or erosion;

(C) The susceptibility of the proposed facility and its contents to flood damage;

(D) The importance of the services provided by the proposed facility to the community;

(E) The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;

(F) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(G) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(H) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(I) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(J) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(iv) Upon consideration of the factors listed above, and the purposes of this ordinance, the board of zoning appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this ordinance.

(v) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum relief necessary so as not to destroy the historic character and design of the building.

(b) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request. (as added by Ord. #2007-24, July 2007, and replaced by Ord. #2010-01, Jan. 2010)

**19-212. Legal status provisions.** (1) Conflict with other ordinances. In case of conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of City of Maryville, Tennessee, the most restrictive shall in all cases apply.

(2) Validity. If any section, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not of itself invalid or

unconstitutional. (as added by Ord. #2007-24, July 2007, and replaced by Ord. #2010-01, Jan. 2010)

## CHAPTER 3

### GRADING, SOIL EROSION AND SEDIMENTATION CONTROL

#### SECTION

- 19-301. Purpose.
- 19-302. Rules applying to chapter.
- 19-303. Definitions.
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- 19-322. Notice of violation.
- 19-323. Appeals.
- 19-324. Special fund created.
- 19-325. [Deleted.]

**19-301. 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 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;
- (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. (1985 Code, § 4-901, as replaced by Ord. #2005-27, July 2005, Ord. #2008-14, March 2008, and Ord. #2013-02, Jan. 2013)

**19-302. 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. (1985 Code, § 4-902, as replaced by Ord. #2005-27, July 2005, Ord. #2008-14, March 2008, and Ord. #2013-02, Jan. 2013)

**19-303. Definitions.** (1) "Applicant." Person submitting the application for a grading permit. Typically, this is the owner or operator of the land-disturbing activity.

(2) "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.

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

(4) "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.

(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 man-made, is removed, or any building or other structures are removed or any water course or body of water, either natural or man-made, is relocated on any site, thereby creating an unprotected area. "Grading" 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, re-development, 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 (0.1) 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. (1985 Code, § 4-903, as replaced by Ord. #2005-27, July 2005, Ord. #2008-14, March 2008, and Ord. #2013-02, Jan. 2013)

**19-304. 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. (1985 Code, § 4-904, as replaced by Ord. #2005-27, July 2005, Ord. #2008-14, March 2008, and Ord. #2013-02, Jan. 2013)

**19-305. 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. (1985 Code, § 4-905, as replaced by Ord. #2005-27, July 2005, Ord. #2008-14, March 2008, and Ord. #2013-02, Jan. 2013)

**19-306. 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 § 19-307.

(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 § 19-307:

(a) Any new development or redevelopment that will result in land-disturbing activity that is greater than one-tenth (0.1) 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 § 19-307 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 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;
- (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 § 19-307 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. (1985 Code, § 4-906, as replaced by Ord. #2005-27, July 2005, Ord. #2008-14, March 2008, and Ord. #2013-02, Jan. 2013)

**19-307. 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. (1985 Code, § 4-907, as replaced by Ord. #2005-27, July 2005, Ord. #2008-14, March 2008, and Ord. #2013-02, Jan. 2013)

**19-308. 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. (1985 Code, § 4-908, as replaced by Ord. #2005-27, July 2005, Ord. #2008-14, March 2008, and Ord. #2013-02, Jan. 2013)

**19-309. 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. (1985 Code, § 4-909, as replaced by Ord. #2005-27, July 2005, Ord. #2008-14, March 2008, and Ord. #2013-02, Jan. 2013)

**19-310. 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. (1985 Code, § 4-910, as replaced by Ord. #2005-27, July 2005, and Ord. #2008-14, March 2008)

**19-311. Pre-construction inspection and meeting.** (1) For all land-disturbing activities greater than 0.10 acres, a grading permit shall be issued only after a pre-construction inspection by the director 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; or
- (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. (1985 Code, § 4-911, as replaced by Ord. #2005-27, July 2005, Ord. #2008-14, March 2008, and Ord. #2013-02, Jan. 2013)

**19-312. 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. (1985 Code, § 4-912, as replaced by Ord. #2005-27, July 2005, Ord. #2008-14, March 2008, and Ord. #2013-02, Jan. 2013)

**19-313. 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;
- (3) Any other records required by the Tennessee General NPDES Permit for Discharges of Stormwater Associated with Constructed Activities. (1985 Code, § 4-913, as replaced by Ord. #2005-27, July 2005, Ord. #2008-14, March 2008, and Ord. #2013-02, Jan. 2013)

**19-314. 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. (1985 Code, § 4-914, as replaced by Ord. #2005-27, July 2005, Ord. #2008-14, March 2008, and Ord. #2013-02, Jan. 2013)

**19-315. 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 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) 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. (as added by Ord. #2007-27, July 2005, and replaced by Ord. #2008-14, March 2008, and Ord. #2013-02, Jan. 2013)

**19-316. 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. (as added by Ord. #2005-27, July 2005, and replaced by Ord. #2008-14, March 2008, and Ord. #2013-02, Jan. 2013)

**19-317. 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 offsite 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/storation 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 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. (as added by Ord. #2005-27, July 2005, and replaced by Ord. #2008-14, March 2008, and Ord. #2013-02, Jan. 2013)

**19-318. 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. (as added by Ord. #2005-27, July 2005, and replaced by Ord. #2008-14, March 2008, and Ord. #2013-02, Jan. 2013)

**19-319. 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. (as added by Ord. #2005-27, July 2005, and replaced by Ord. #2008-14, March 2008, and Ord. #2013-02, Jan. 2013)

**19-320. 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. (as added by Ord. #2005-27, July 2005, and replaced by Ord. #2008-14, March 2008, and Ord. #2013-02, Jan. 2013)

**19-321. Penalties and enforcement.** (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 § 19-306(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:

<b><u>Violation</u></b>	<b><u>Max. Penalty</u></b>	<b><u>Min. Penalty</u></b>
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

<u>Violation</u>	<u>Max. Penalty</u>	<u>Min. Penalty</u>
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 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 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. (as added by Ord. #2005-27, July 2005, and replaced by Ord. #2008-14, March 2008, and Ord. #2013-02, Jan. 2013)

**19-322. 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;
- (5) Provide a deadline for compliance or to stop work. (as added by Ord. #2005-27, July 2005, and replaced by Ord. #2008-14, March 2008, and Ord. #2013-02, Jan. 2013)

**19-323. Appeals.** Appeal or review of a civil penalty or damage assessment under this section 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. (as added by Ord. #2005-27, July 2005, and replaced by Ord. #2008-14, March 2008, and Ord. #2013-02, Jan. 2013)

**19-324. 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. (as added by Ord. #2008-14, March 2008, and Ord. #2013-02, Jan. 2013)

**19-325. [Deleted.]** (as added by Ord. #2008-14, March 2008, and deleted by Ord. #2013-02, Jan. 2013)

## CHAPTER 4

### MAINTENANCE OF DRIVEWAY DRAINAGE CULVERTS<sup>1</sup>

#### SECTION

19-401. Maintenance of residential driveway drainage culverts.

19-402. Maintenance of multi-family residential, commercial and industrial driveway drainage culverts.

19-403. Time limitation to make repairs on drainage culverts.

#### **19-401. Maintenance of residential driveway drainage culverts.**

Where residential driveways cross streetside drainage ditches requiring drainage culverts, it shall be the responsibility of the property owner served by the driveway, to maintain the drainage culvert in such a manner as to ensure an uninterrupted flow through the drainage culvert at all times. In the event of the drainage culvert being declared unusable by the city engineer, the owner of the property served by the driveway shall be responsible for purchasing a replacement drainage culvert. The installation of the replacement drainage culvert will be made by the City of Maryville. The city engineer shall determine drainage culvert location, alignment, material, size and length. (1985 Code, § 12-501)

#### **19-402. Maintenance of multi-family residential, commercial and industrial driveway drainage culverts.**

Where multi-family residential, commercial and industrial driveways cross streetside drainage ditches requiring drainage culverts, it shall be the responsibility of the property owner served by the driveway to maintain the drainage culvert in such a manner as to ensure an uninterrupted flow through the drainage culvert at all times. In the event of the drainage culvert being declared unusable by the city engineer, the owner of the property served by the driveway shall be responsible for purchasing a replacement drainage culvert; and for the installation of the drainage culvert. The city engineer shall determine drainage culvert location, alignment, material, size and length. (1985 Code, § 12-502)

#### **19-403. Time limitation to make repairs on drainage culverts.**

In the event a property owner is told by the city engineer that maintenance or replacement of the drainage culvert is required, the owner shall have sixty (60) days from the time notified by the city engineer to complete the required work. However, if the public welfare and health are endangered by a condition which needs to be corrected, the city engineer shall specify a time period less than sixty (60) days in which the work shall be completed. (1985 Code, § 12-503)

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<sup>1</sup>This chapter renumbered in conjunction with Change 8, April 1, 2008.

## CHAPTER 5

### RULES, RATES AND CHARGES FOR THE STORMWATER UTILITY SERVICE<sup>1</sup>

#### SECTION

- 19-501. Rules, rates, and charges adopted.
- 19-502. Findings.
- 19-503. Definitions.
- 19-504. Determination and modification of stormwater service charges.
- 19-505. Effective date of stormwater service charges.
- 19-506. Stormwater service charges.
- 19-507. Exemptions and credits applicable to stormwater service charges.
- 19-508. Stormwater service charge billing, delinquencies, and collections.
- 19-509. Application of utility service charges billed in common.
- 19-510. Removal or cessation of utility services.
- 19-511. Appeals.
- 19-512. City of Maryville, Tennessee Stormwater Utility Credit Manual for Stormwater Fees.

**19-501. Rules, rates and charges adopted.** Pursuant to authority granted by §§ 68-221-1101 through 68-221-1113 of the Tennessee Code Annotated 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. (as added by Ord. #2003-31, Oct. 2003)

**19-502. 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 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 plans review and inspections, and establishment of a capital recovery fee or fees consistent with state law.

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<sup>1</sup>This chapter renumbered in conjunction with Change 8, April 1, 2008.

(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. (as added by Ord. #2003-31, Oct. 2003)

**19-503. Definitions.** As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Credit" shall mean 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" shall include all persons, properties, and entities served by and/or benefiting from the utility's acquisition, management, maintenance, extension, and improvement of the stormwater management programs, systems, and facilities and regulation of public and private stormwater systems, facilities, and activities related thereto, and persons, properties, and entities which will ultimately be served or benefited as a result of the stormwater management program.

(3) "Detached dwelling unit" shall mean developed land containing one structure which is not attached to another dwelling and which contains one or more rooms with a bathroom and kitchen facilities designed for occupancy by one family. Detached dwelling units may include houses, manufactured homes, and mobile homes located on one or more individual lots or parcels of land. Developed land 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 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" shall mean property altered from a natural state by construction or installation of more than 200 square feet of impervious surfaces as defined in this chapter.

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

(6) "Equivalent residential unit (ERU)" of impervious area shall mean 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 equivalent residential unit (ERU).

(7) "Flood control facilities" shall mean all natural and manmade conveyances and structures for which the partial or full purpose or use is to convey surface flood runoff water within the jurisdictional boundaries of 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" shall mean 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" shall mean developed land whereon four 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 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" shall mean, 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" shall mean stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration (other than infiltration contaminated by seepage from sanitary sewers or by other discharges) and drainage.

(12) "Stormwater service charge" shall mean 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."

(13) "Stormwater management facilities" shall mean those natural and man-made drainage structures, conveyances, conduits, combined sewers, sewers, and all device appurtenances by means of which storm water is collected, transported, pumped, treated or disposed of. (as added by Ord. #2003-31, Oct. 2003)

**19-504. 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 part. Such a graduated storm water user's fee shall be based on actual or estimated use of the storm water 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 storm water runoff

from all users or user classes. To ensure a proportionate distribution of all costs to each user or user class, the user's contribution shall be based on factors such as the amount of impervious area utilized by the user, the water quality of user's storm water runoff or the volume or rate of storm water 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 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. (as added by Ord. #2003-31, Oct. 2003)

**19-505. 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. (as added by Ord. #2003-31, Oct. 2003)

**19-506. 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 § 18-406(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 § 18-406(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 \$3.97 per month until and unless the service charge rate is changed by the Council of the City of Maryville. (as added by Ord. #2003-31, Oct. 2003)

**19-507. 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.

(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 storm water service charges. Platted private roads and platted private rights-of-way are further exempt from storm water 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 eighteen-hundred (1800) 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 (50) percent 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 (50) percent 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 homeowners 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 non-compliance. Thirty (30) days notice of a non-complying 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. (as added by Ord. #2003-31, Oct. 2003, and amended by Ord. #2005-23, June 2005; and Ord. #2006-22, April 2006)

**19-508. 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 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. (as added by Ord. #2003-31, Oct. 2003)

**19-509. 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. (as added by Ord. #2003-31, Oct. 2003)

**19-510. 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. (as added by Ord. #2003-31, Oct. 2003)

**19-511. Appeals.** Any stormwater utility service customer who believes the provisions of this article 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 article.

(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. (as added by Ord. #2003-31, Oct. 2003)

**19-512. City of Maryville, Tennessee Stormwater Utility Credit Manual for Stormwater Fees.** The City of Maryville, Tennessee Stormwater Utility Credit Manual for Stormwater Fees as attached hereto as Exhibit A 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. (as added by Ord. #2005-23, June 2005)

## CHAPTER 6

### STORMWATER DISCHARGES

#### SECTION

- 19-601. Purpose.
- 19-602. Rules applying to chapter.
- 19-603. Definitions.
- 19-604. Prohibitions.
- 19-605. Notification of spills and illicit discharges.
- 19-606. Requirements for monitoring.
- 19-607. Right of entry.
- 19-608. Notice of violation.
- 19-609. Penalties.

**19-601. 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;
- (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. (as added by Ord. #2005-26, July 2005, and replaced by Ord. #2008-15, March 2008)

**19-602. 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. (as added by Ord. #2005-26, July 2005, and replaced by Ord. #2008-15, March 2008)

**19-603. Definitions.** The following phrases as used in this section shall contain the following definitions:

- (1) "Illicit discharge." Any discharge to the stormwater system that is not composed entirely of stormwater and not specifically exempted in this chapter.
- (2) "Industrial waste." Liquid or other waste resulting from any process of industry, manufacturer, trade or business or from the development of any natural resources.

(3) "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.

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

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

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

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

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

(9) "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.

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

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

(12) "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 manmade, located within the city which are designated or used for collecting, storing, or conveying stormwater, or through which stormwater is collected, stored or conveyed, whether owned or operated by the City of Maryville or any other person.

(13) "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.

(14) "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. (as added by Ord. #2005-26, July 2005, and replaced by Ord. #2008-15, March 2008)

**19-604. 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 waste water;

(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;

(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 (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. (as added by Ord. #2005-26, July 2005, and replaced by Ord. #2008-15, March 2008)

**19-605. 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 clean-up 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. (as added by Ord. #2005-26, July 2005, and replaced by Ord. #2008-15, March 2008)

**19-606. 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. (as added by Ord. #2005-26, July 2005, and replaced by Ord. #2008-15, March 2008)

**19-607. 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. (as added by Ord. #2005-26, July 2005, and replaced by Ord. #2008-15, March 2008)

**19-608. Notice of violation.** Whenever the director of engineering and public works or his/her designee determines that a violation of any provision of this section 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 violation has occurred;
- (3) List the violation;
- (4) State the action required;
- (5) Provide a deadline for compliance or to stop work. (as added by Ord. #2008-15, March 2008)

**19-609. Penalties.** (1) Any person violating the provisions of this section 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 Blount County Circuit Court. (as added by Ord. #2008-15, March 2008)

**CHAPTER 7****VEGETATED BUFFER ZONE AND  
STORMWATER QUALITY MANAGEMENT****SECTION**

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**19-701. Purpose.** The purpose of the Stormwater Quality Management and Vegetated Buffers Ordinance 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;
- (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. (as added by Ord. #2008-08, Feb. 2008)

**19-702. 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. (as added by Ord. #2008-08, Feb. 2008)

**19-703. 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 ordinance. 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 and 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) "Land-disturbing activity." Any activity on private or public land that may result in soil erosion and the movement of sediments. Land disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, logging and/or tree chipping operations, haul roads associated with the development, and excavation.

(18) "Lake." See "pond."

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

(25) "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 ordinance.

(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; or

(b) Are identified as a blue line on a seven and one-half (7.5) minute USGS quadrangle, unless otherwise designated by 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 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 is 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) "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.

(43) "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 floodwater.

(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. (as added by Ord. #2008-08, Feb. 2008)

**19-704. Authority.** (1) The city manager and the staff under the city manager's supervision shall administer the provisions of this ordinance.

(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 ordinance 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. (as added by Ord. #2008-08, Feb. 2008)

**19-705. 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 3 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 3 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. (as added by Ord. #2008-08, Feb. 2008)

**19-706. 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 (20) feet 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 need 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. (as added by Ord. #2008-08, Feb. 2008)

**19-707. 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. (as added by Ord. #2008-08, Feb. 2008)

**19-708. 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. (as added by Ord. #2008-08, Feb. 2008)

**19-709. 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;

(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. (as added by Ord. #2008-08, Feb. 2008)

**19-710. 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. (as added by Ord. #2008-08, Feb. 2008)

**19-711. Minimum width and vegetation standards for buffers on streams and rivers.** (1) A water quality buffer having a minimum width of sixty (60) feet 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 two (2) zones, as follows:

(a) Inner zone: The inner zone of the water quality buffer shall have a minimum width of thirty (30) feet, 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 (30) feet.

(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 (60) feet, 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 (60) feet; and

(b) The width of the buffer shall not be less than thirty (30) feet 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 (30) feet (or less at infrastructure encroachments and stream crossings) can comprise no more than fifty percent (50%) of the buffer length;

(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 (50) feet 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;
- (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. (as added by Ord. #2008-08, Feb. 2008)

**19-712. Minimum width and vegetation standards for buffers on ponds and lakes.** (1) A water quality buffer having a minimum width of thirty (30) feet 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. (as added by Ord. #2008-08, Feb. 2008)

**19-713. Minimum width and vegetation standards for buffers on wetlands.** (1) A water quality buffer having a minimum width of thirty (30) feet 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. (as added by Ord. #2008-08, Feb. 2008)

**19-714. 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; and

(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. (as added by Ord. #2008-08, Feb. 2008)

**19-715. Requirements for steep slopes in water quality buffer areas.** Where steep slopes of fifteen percent (15%) or greater are located within fifty (50) feet of the water body, one 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 (20) feet, giving a total buffer width of eighty (80) feet. At a minimum, the additional twenty (20) feet 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 (60) feet and follow the inner zone criteria. (as added by Ord. #2008-08, Feb. 2008)

**19-716. 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, 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 § 19-714(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 § 19-710.

(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 (400) feet 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 section 404 of the Federal Clean Water Act. 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.

(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. (as added by Ord. #2008-08, Feb. 2008)

**19-717. 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. (as added by Ord. #2008-08, Feb. 2008)

**19-718. 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. (as added by Ord. #2008-08, Feb. 2008)

**19-719. 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";

(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. (as added by Ord. #2008-08, Feb. 2008)

**19-720. 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 State of Tennessee and Maryville buffer requirements differ, the more stringent requirement shall apply. (as added by Ord. #2008-08, Feb. 2008)

**19-721. 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. (as added by Ord. #2008-08, Feb. 2008)

**19-722. 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. (as added by Ord. #2008-08, Feb. 2008)

**19-723. 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 § 19-706 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. (as added by Ord. #2008-08, Feb. 2008)

**19-724. 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 § 19-723 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 § 19-733 through § 19-735 of this chapter. (as added by Ord. #2008-08, Feb. 2008)

**19-725. 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. (as added by Ord. #2008-08, Feb. 2008)

**19-726. 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. (as added by Ord. #2008-08, Feb. 2008)

**19-727. 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. (as added by Ord. #2008-08, Feb. 2008)

**19-728. 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. (as added by Ord. #2008-08, Feb. 2008)

**19-729. 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. (as added by Ord. #2008-08, Feb. 2008)

**19-730. 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 § 19-726.

(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. (as added by Ord. #2008-08, Feb. 2008)

**19-731. Enforcement after construction.** The requirements of this chapter shall be enforced by the director of engineering and public works or his/her designee 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 § 19-726. 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. (as added by Ord. #2008-08, Feb. 2008)

**19-732. 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. (as added by Ord. #2008-08, Feb. 2008)

**19-733. Unlawful acts.** Any Person who: (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;

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. (as added by Ord. #2008-08, Feb. 2008)

**19-734. Penalties.** (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 sub-section (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 or more of the remedies set forth herein has been sought or granted. (as added by Ord. #2008-08, Feb. 2008)

**19-735. 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;

(5) Provide a deadline for compliance or to stop work. (as added by Ord. #2008-08, Feb. 2008)

**19-736. Judicial proceedings and relief.** (1) The city attorney may initiate proceedings seeking legal and/or equitable relief in any court 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;

(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. (as added by Ord. #2008-08, Feb. 2008)

**19-737. 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 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. (as added by Ord. #2008-08, Feb. 2008)

**19-738. 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. (as added by Ord. #2008-08, Feb. 2008)