

*Passed indefinitely
11/26/02*

Submitted by: Assemblymember Shamberg
Prepared by: Department of Assembly
For Reading: ~~November 8, 2002~~
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ANCHORAGE, ALASKA
AO 2002-113

AN ORDINANCE REPEALING OR AMENDING AND RENUMBERING SECTIONS OF ANCHORAGE MUNICIPAL CODE CHAPTERS 21.67, 15.40, AND 15.50 AND ANCHORAGE MUNICIPAL CODE OF REGULATIONS CHAPTER 21.67, REGARDING STORMWATER AND WATERSHED MANAGEMENT; AND AMENDING ANCHORAGE MUNICIPAL CODE SECTIONS 4.40.150, 14.60.030, 21.10.015, 21.35.020 AND 21.40.230; TO PROVIDE FOR THE IMPLEMENTATION AND ENFORCEMENT OF STORMWATER AND WATERSHED MANAGEMENT. AMENDING ANCHORAGE MUNICIPAL CODE TITLE 21 BY ADDING DEFINITIONS PERTAINING TO LAND CLEARING IN SUBSECTION 21.35.020B., DEFINITIONS AND RULES OF CONSTRUCTION; ADDING A NEW SECTION TO ANCHORAGE MUNICIPAL CODE CHAPTER 21.45 TO REQUIRE PRE-APPROVAL BEFORE CLEARING LAND OF VEGETATION; AND CREATING EXCEPTIONS AND PENALTIES THEREFORE.

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code section 4.40.150 is hereby amended to read as follows: *(the remainder of the section is not affected and therefore not set out.)*

4.40.150 **On-site wastewater system technical review board.**

A. *Establishment.* There is hereby established an on-site wastewater system technical review board. The board shall have the powers and duties set forth in this chapter.

B. *Powers and duties.* The board shall:

1 Propose, review and make recommendations to the assembly regarding proposed amendments to chapter 21.67, chapter 15.65, or regulations thereunder. The assembly shall not adopt such an amendment or regulation until it has been reviewed by the board. [PROPOSE REVISIONS OF REGULATIONS OR OTHER CRITERIA OF THIS TITLE AND MAKE RECOMMENDATIONS FOR ADOPTION TO THE ADMINISTRATION AND TO THE ASSEMBLY PURSUANT TO CHAPTER 3.40];

[2. REVIEW PROPOSED REVISIONS OF REGULATIONS OR OTHER CRITERIA OF THIS TITLE AND MAKE RECOMMENDATIONS FOR THE ADOPTION TO THE ADMINISTRATION PURSUANT TO CHAPTER 3.40;]

2.[3]. Hear and decide appeals:

- a. related to [THIS] chapter 15.65 and [AMC] section 15.05.160 from decisions of the department under [AMC] section 15.05.090.
- b. related to chapter 21.67.
- c. related to denial of a permit to perform work in the watershed district.

The scope of review shall be whether or not the decision from which the appeal is taken is arbitrary and capricious based on a clear and consistent application of the standards established in the applicable code sections [CHAPTER 15.05 AND THIS CHAPTER]. The technical review board may consider evidence in addition to the record on appeal;

3[4]. Review fee schedules proposed by the development services department under [THIS] chapters 15.65 and 21.67 and advise the assembly as to appropriateness;

Code Reviser – renumber remaining subsections as appropriate.

(AO No. 86-21; AO No. 90-48(S-1); AO No. 96-152, § 3, 12-17-96)

Section 2. Anchorage Municipal Code section 14.60.030 is hereby amended to add certain fines to read as follows: (*the remainder of the section is not affected and therefore not set out*)

14.60.030 **Fine schedule.**

The fine schedule under this chapter is as follows:

Code Section	Offense	Penalty/Fine
[15.40.010]	[WATER POLLUTION PROHIBITED]	[75.00]
[15.40.020]	[PROHIBITED DISCHARGES (IDENTIFYING SPECIFIC VIOLATION)]	[75.00]
[15.40.040]	[WATERCOURSES, DUMPING]	[75.00]
[15.50.020]	[WATERSHED REGULATIONS (IDENTIFIED SPECIFIC VIOLATION)]	[75.00]

<u>21.67.030</u>	<u>Prohibited discharges</u>	<u>300.00</u>
<u>21.67.070</u>	<u>Failure to have plan approvals, permits, obey stop work orders</u>	<u>100.00-300.00</u>

Section 3. Anchorage Municipal Code section 21.10.015 is hereby amended to read as follows: (the remainder of the section is not affected and therefore not set out.)

21.10.015 Planning and zoning commission.

A. There shall be a planning and zoning commission, which shall have the following powers and duties:

3. Review and make recommendations to the assembly regarding proposed amendments to this title, except amendments to chapters 21.67 and 21.75 through 21.87, and proposed regulations to implement, interpret or make specific provisions of this title, except provisions of chapters 21.67 and 21.75 through 21.87. Except as stated in this subsection, the assembly shall not adopt such an amendment or regulation until it has been reviewed by the commission. If the commission is requested by the assembly on the record to review an amendment or regulation, it shall do so within six months of the request. If the commission is unable to make a recommendation to the assembly within six months of the request, the commission shall request additional time to review the amendment or regulation. The assembly may, after the request for additional time, grant whatever more time may be appropriate, or the assembly may take action on the amendment or regulation without further review or input from the commission.

9. Promulgate regulations to implement, interpret or make specific the provisions of this title, except provisions of chapters 21.67 and 21.75 through 21.87, in accordance with the provisions of chapter 3.40.

(GAAB 21.30.120; AO No. 77-355; AO No. 82-49; AO No. 82-167; AO No. 84-20; AO No. 84-70; AO No. 84-211; AO No. 85-72; AO No. 85-160; AO No. 86-54; AO No. 86-155; AO No. 99-131, § 1, 10-26-99)

Section 4. Anchorage Municipal Code section 15.40.050 is hereby repealed. Anchorage Municipal Code section 21.35.020 is hereby amended by adding the following new definitions to read as follows: (*the remainder of the section is not affected and therefore not set out.*)

Development means any existing or in-process improvements of raw land, including but not limited to clearing, grading and grade alteration, and construction of any structure.

Developed Lot means any individual lot that is already occupied by a permitted principal use.

Land Clearing means mechanized activities directly related to land preparation for development, including grubbing, hydro-axing, clearing, brushing, filling, grading, working soil and excavating.

Person means any individual, trustee, association, partnership, corporation, or limited liability company, or any officer, employee, department, agency or instrumentality of the United States, a state or any political subdivision of a state.

Pollution means the contamination or altering of waters, land, or subsurface land of the municipality in a manner that creates a nuisance or makes waters, land, or subsurface land unclean, noxious, or impure, or unfit so that they are actually or potentially harmful, detrimental, or injurious to public health, safety or welfare, to domestic, commercial, industrial, or recreational use, or to livestock, wild animals, birds, fish, or other aquatic life, and includes those substances identified in subsections 21.67.030A. and B.

Storm sewer and separate storm sewer system mean a conveyance or system of conveyances, including roads and drainage systems, municipal streets, catchbasins, curbs, gutters, ditches, manmade channels, or storm drains:

- 1 Owned or operated by the state, Municipality of Anchorage, district, association or other public body (created by or pursuant to state or local law) having jurisdiction over disposal of sewage, industrial wastes, storm water or other wastes, including special districts under state or local law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;
- 2 Designed or used for collecting or conveying stormwater;
- 3 Which is not a combined sewer; and
- 4 Which is not part of a publicly owned treatment works (POTW) as defined at 40 CFR 122.2.

Storm water means surface water runoff originating from surface water, snowmelt, wash waters, street wash, subsurface drainage, or other drainage but excludes wastewater as defined in Title 15 of the Anchorage Municipal Code.

Vegetation means any living tree, shrub, plant, groundcover or combination thereof, including, but not limited to, mature vegetation, native vegetation, woodlands, wetlands, and landscaping, to include lawns as complementary or supplementary to existing native vegetation only.

Water means lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets and canals in the territorial limits of the municipality and all other bodies of surface water or underground water, natural or

artificial, public or private, inland or coastal, fresh or salt, that are wholly or partially in or bordering the municipality or under the jurisdiction of the municipality.

Waters of the United States means:

- A. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- B. All interstate waters, including interstate wetlands;
- C. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes or natural ponds, the use, degradation or destruction of which would affect interstate or foreign commerce, including any such waters:
 - 1. Which are or could be used by interstate or foreign travelers for recreational or other purposes;
 - 2. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - 3. Which are used or could be used for industrial purposes by industries in interstate commerce;
- D. All impoundments of waters otherwise defined as waters of the United States under this definition;
- E. Tributaries of waters identified in subsections 1 and 6 of this definition;
- F. The territorial sea; and
- G. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in subsections A through F of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Clean Water Act (other than cooling ponds as defined in 40 CFR 423.11(m) which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to manmade bodies of water that neither were originally created in waters of the United States (such as disposal areas in wetlands) nor resulted from the impoundment of waters of the United States.

Watershed district means those lands and waters designated as the Anchorage Watershed District on the map that is printed following this chapter.

Watershed manager means the executive director of the Office of Planning, Development, and Public Works or designee, who is the administrator of, and storm water

program coordinator for, the National Pollutant Discharge Elimination System municipal separate storm sewer system permit required under federal law.

(GAAB 21.05.020; AO No. 77-355; AO No. 78-16; AO No. 78-28; AO No. 78-171; AO No. 78-231; AO No. 79-214; AO No. 80-42; AO No. 81-67(S); AO No. 81-97; AO No. 81-180; AO No. 82-54; AO No. 82-167; AO No. 83-91(S); AO No. 84-14; AO No. 84-52; AO No. 85-58; AO No. 85-159; AO No. 85-91, 10-1-85; AO No. 85-216; AO No. 86-19; AO No. 86-78; AO No. 86-90; AO No. 86-171; AO No. 88-172; AO No. 88-171(S-1), 12-31-88; AO No. 89-35, 4-7-89; AO No. 88-147(S-2); AO No. 90-50(S); AO No. 91-35; AO No. 90-152(S); AO No. 91-90(S); AO No. 91-184; AO No. 92-7(S-2); AO No. 92-26; AO No. 92-93; AO No. 92-128(S); AO No. 92-129(S); AO No. 93-58; AO No. 93-148, § 1, 11-16-93; AO No. 94-62, § 2, 4-12-94; AO No. 95-68(S-1), §§ 2, 3, 8-8-95; AO No. 95-173, § 1, 11-14-95; AO No. 96-41, § 1, 3-5-96; AO No. 96-131(S), § 1, 10-22-96; AO No. 98-106, § 1, 7-21-98; AO No. 98-160, § 3, 12-8-98; AO No. 99-62, § 2, 5-11-99; AO No. 2000-119(S), § 8, 2-20-01; AO No. 2001-79(S), § 1, 5-8-01; AO No. 2001-80, § 1, 5-8-01)

Section 5. Anchorage Municipal Code section 15.50.020 is hereby amended and renumbered as subsection 21.40.230E. Anchorage Municipal Code section 15.50.030 is hereby amended and renumbered as subsection 21.40.230F. Anchorage Municipal code section 21.40.230 is further amended to read as follows:

21.40.230 W watershed district.

[THE FOLLOWING STATEMENT OF INTENT AND USE REGULATIONS SHALL APPLY IN THE W DISTRICT:]

A. *Intent.* The watershed [THIS] district is intended to preserve and protect the potable water reserves available to the municipality in the Chugach Range east of the metropolitan area. The major responsibility in the management of watershed areas is the control of those factors liable to contaminate or pollute the water. Agricultural, residential, commercial, industrial, or other urban land uses are incompatible with the concept of watershed conservation. All uses of land within the watershed district, whether permitted by subsection B, C, or D of this section, shall be subject to the provisions of chapter [15.50] 21.67.

B. *Permitted principal uses and structures.* Permitted principal uses and structures are as follows:

- 1 Water reservoirs.
2. Water treatment plants.
3. Water pumping stations.
4. Water transmission lines.
5. Snow and water gauging stations.

6. High-voltage transmission lines.
7. Placer mining operations subject to a wastewater discharge permit issued by the state Department of Environmental Conservation.
8. Type 1, 2, 3, and 4 community interest and local interest towers as specified in the supplementary district regulations.

C. *Permitted accessory uses and structures.* Customary uses and buildings accessory to the principal uses are permitted, including but not limited to power lines and access roads.

D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, certain uses, other than those listed under permitted principal uses and structures, may be permitted under the grant of a conditional use by the planning and zoning commission. Any conditional use granted under the authority of this subsection shall be conditioned on compliance with the provisions of this section and chapter 21.67 [CHAPTER 15.50]. In determining whether to grant a conditional use, the Planning and Zoning Commission shall:

1. Examine the petitioner's proposal for its impact on groundwater supplies and stream pollution, the effects of land development on surface water runoff and erosion, and the alteration of natural drainage patterns.
2. Solicit the technical advice of affected and knowledgeable public agencies, including but not limited to the municipal water utility, the U.S. Soil Conservation Service, the U.S. Geological Survey, the U.S. Corps of Engineers, the municipal Department of Health and Human Services, the municipal Development Services Department, the U.S. Bureau of Land Management and the state Division of Lands, and any private water utility company which may be affected by the proposed use.
3. Impose any conditions that it deems reasonable for attainment of the objectives of this district.

In addition, the commission may require the petitioner to submit engineering and other technical studies that will show the impact of proposed development on the hydrology of the affected area within the water district.

E. [15.50.020 WATERSHED DISTRICT -]*Prohibited uses.* [ACTS.] Within the watershed district no person shall commit any of the following acts without having a permit issued by the municipality [DEPARTMENT]:

1. Make use of any surface water, springs, or groundwater, whether flowing or not.
2. Obstruct, interrupt, or interfere with any surface or underground drainage, runoff, flow of water, or watercourse.
3. Construct any dam, ditch, dike, road, or trail.
4. Dig, excavate, drill, or otherwise disturb the surface or underground.
5. Remove, clear, or otherwise destroy by mechanical or chemical means any trees, brush, grass, plants, or other natural ground cover.
6. Cultivate, plow, sow, or plant any land.
7. Start or maintain any fire.
8. Maintain or store any combustible or flammable material.
9. Pollute, contaminate, discharge or dump any water, refuse, debris or material into any reservoir, pipeline, stream, rill, drainage, runoff, watercourse or other groundwater and surface water source or supply.
10. Use any sprays, chemicals, or insecticides.
11. Otherwise damage, injure, contaminate, pollute, obstruct, or interfere with the surface or underground in any manner that may affect the rainfall or precipitation and the collection, drainage, sources, supply, runoff, or watercourses of groundwater and surface water.
12. Fish or hunt except as permitted by state law.
- 13[B]. No person shall cause or permit a sewage disposal system to be located within the drainage of any watershed area used for or reserved for use as a source of public water supply.

F. [15.50.030] Permits.

- 1[A]. *Criteria for issuance.* No permit allowing any act otherwise prohibited by subsection E. [SECTION 15.50.020] shall be issued unless the applicant for the permit shall satisfy the municipality [DEPARTMENT] that any such act will not contaminate, interrupt, interfere with or injure the watershed district and water supply and shall meet the requirements set forth in [SUBSECTION B OF] this section.
2. *Compliance with applicable regulations.* No permit shall be issued pursuant to this section [CHAPTER] unless the act to be permitted

complies with the water supply, waste disposal, and water pollution control laws and regulations of the state department of environmental conservation, the municipal Department of Health and Human Services, and the municipal Office of Planning, Development, and Public Works [AND THE DEPARTMENT AND IS A USE PERMITTED IN THE MUNICIPAL WATERSHED DISTRICT BY THE ZONING ORDINANCE OF THE MUNICIPALITY].

G[E]. *Minimum lot requirements.* There are no minimum lot requirements in this district.

H[F]. *Minimum yard requirements.* There are no minimum yard requirements in this district.

I[G]. *Maximum lot coverage by all buildings.* None.

J[H]. *Maximum height of structures.* Maximum height of structures is unrestricted, except that structures shall not interfere with Federal Aviation Administration regulations on airport approaches.

K[I]. *Signs.* Signs may be allowed in connection with any permitted use, subject to the provisions of the supplementary district regulations.

(GAAB 21.05.050.R; AO No. 77-355; AO No. 84-34; AO No. 85-23; AO No. 99-62, § 27, 5-11-99)

Code Reviser – please add the following note:

Editor's note: AO 2002-___ added subsections E. and F., formerly codified as 15.50.020 and 15.50.030. The legislative history for section 15.50.020 includes CAC 10.56.030, 10.56.130, and GAAB 16.45.030.C. The legislative history for section 15.50.030 includes CAC 10.56.050 and 10.56.120.

Section 6. Anchorage Municipal Code Chapter 21.67 is hereby renamed and amended by adding two new sections to read as follows:

Chapter 21.67 WATER POLLUTION CONTROL [STORMWATER DISCHARGE]

21.67.010 Declaration of policy.

It is the policy and intent of the municipality and the duty of the Office of Planning, Development, and Public Works to abate water pollution, to improve the quality of the environment for the residents of the municipality, and to address land clearing and development in relation to water quality and land clearing and grubbing. Anchorage Municipal Code Chapter 21.67 regulates water pollution and storm water discharge and shall be read in conjunction with other provisions of the law, including but not limited to chapters 21.85 and 23.15.

21.67.020 Department jurisdiction.

Unless otherwise indicated, when used in this chapter *department* means the Office of Planning, Development and Public Works and *director* includes any designee.

Section 7. Anchorage Municipal Code sections 15.40.010, 15.40.020 and 15.40.040 are hereby repealed and re-enacted as section 21.67.030 to read as follows:

21.67.030 Prohibited discharges or acts.

A. No person shall cause or permit the illicit discharge of any of the following in such a manner that access was, is or will be gained to

1. any waters of the state, or waters of the United States, unless such is first treated in a manner approved by the state and local agencies having jurisdiction; or
2. to a storm sewer of the municipality, other than pursuant to an NPDES permit:
 - a. Grease, fatty materials, offal, or garbage;
 - b. Sand, sand dust, dirt, gravel, sawdust, metal filings, broken glass, or any material which may cause or create an obstruction in the sewer;
 - c. Gasoline, benzene, fuel oil, or a petroleum product or volatile liquid;
 - d. Milk or any liquid milk waste products in quantities in excess of ten gallons during any 24-hour period;
 - e. Wax, cyanide, phenols, or other chemical or substances that may cause damage to materials of which the sewer system is constructed;
 - f. Wastewater, as defined in section 15.65.010; or
 - g. Pollutants or any materials other than storm water which are prohibited by the Clean Water Act, National Pollutant Discharge Elimination System under 33 USC 1342 (1987) and regulations adopted thereunder located at 40 CFR 122, 123 and 124 (1990).

B. *Dumping in watercourse.* No person shall deposit, dump, abandon, throw, scatter, or transport solid waste, garbage, rubbish, junk, fill, soil, dirt or other material in such a manner as to obstruct, impound or cause siltation of any

river, stream, creek, watercourse, ditch, drain, or gutter except as otherwise allowed by valid federal, state, or local permits or licenses relative to water pollution, water impoundment, or water quality control.

- C. Any person who permits or causes any pollution identified in subsection A. of this section to be illicitly discharged in a manner which permits access to any waters of the state, or waters of the United States, or a municipal storm sewer, or who violates subsection B., shall report such discharge or violation to the municipal watershed manager and shall make available any information or records related to the contents of the substance discharged.

15.40.010 [WATER POLLUTION PROHIBITED.]

[NO PERSON SHALL CAUSE OR PERMIT ANY SEWAGE OR OTHER WASTES TO BE DISCHARGED INTO OR DISPOSED OF IN SUCH A MANNER THAT ACCESS WILL BE GAINED TO ANY WATERS OF THE STATE, OR WATERS OF THE UNITED STATES, UNLESS SUCH SEWAGE OR WASTES ARE FIRST TREATED IN A MANNER APPROVED BY THE STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND THE DIRECTOR OF THE MUNICIPAL DEPARTMENT OF HEALTH AND HUMAN SERVICES OR HIS DESIGNEE.]

(GAAB 16.45.030.A; AO No. 85-8; AO No. 94-113, § 1, 8-25-94)

15.40.020 [PROHIBITED DISCHARGES.]

- [A. NO PERSON MAY PERMIT OR CAUSE THE FLOW OF, OR ILLICITLY DISCHARGE, ANY OF THE FOLLOWING SUBSTANCES INTO A STORM SEWER OF THE MUNICIPALITY, OTHER THAN PURSUANT TO AN NPDES PERMIT:

- 1 GREASE, FATTY MATERIALS, OFFAL OR GARBAGE;
2. SAND, SAND DUST, DIRT, GRAVEL, SAWDUST, METAL FILINGS, BROKEN GLASS OR ANY MATERIAL WHICH MAY CAUSE OR CREATE AN OBSTRUCTION IN THE SEWER;
3. GASOLINE, BENZINE, FUEL OIL OR A PETROLEUM PRODUCT OR VOLATILE LIQUID;
4. MILK OR ANY LIQUID MILK WASTE PRODUCTS IN QUANTITIES IN EXCESS OF TEN GALLONS DURING ANY 24-HOUR PERIOD;
5. WAX, CYANIDE, PHENOLS OR OTHER CHEMICAL OR SUBSTANCES THAT MAY CAUSE DAMAGE TO MATERIALS OF WHICH THE SEWER SYSTEM IS CONSTRUCTED;
6. WASTEWATER, AS DEFINED IN SECTION 15.65.010; OR
7. POLLUTANTS OR ANY MATERIALS OTHER THAN STORMWATER WHICH ARE PROHIBITED BY THE CLEAN

WATER ACT, NATIONAL POLLUTANT DISCHARGE
ELIMINATION SYSTEM UNDER 33 USC 1342 (1987) AND
REGULATIONS ADOPTED THEREUNDER LOCATED AT 40
CFR 122, 123 AND 124 (1990).]

[B. ANY PERSON WHO PERMITS OR CAUSES ANY SEWAGE OR OTHER
SUBSTANCES IDENTIFIED IN SUBSECTION A OF THIS SECTION TO
BE DISCHARGED IN A MANNER WHICH PERMITS ACCESS TO A
MUNICIPAL STORM SEWER SHALL REPORT SUCH DISCHARGE TO
THE MUNICIPAL WATERSHED MANAGER AND SHALL MAKE
AVAILABLE ANY INFORMATION OR RECORDS RELATED TO THE
CONTENTS OF THE SUBSTANCE DISCHARGED.]

(CAC 11.16.030.C; AO No. 94-113, § 2, 8-25-94)

15.40.040 [DUMPING IN WATERCOURSE.]

[NO PERSON SHALL DEPOSIT, DUMP, ABANDON, THROW, SCATTER OR
TRANSPORT SOLID WASTE, GARBAGE, RUBBISH, JUNK, FILL, SOIL, DIRT
OR OTHER MATERIAL IN SUCH A MANNER AS TO OBSTRUCT, IMPOUND
OR CAUSE SILTATION OF ANY RIVER, STREAM, CREEK, WATERCOURSE,
DITCH, DRAIN OR GUTTER EXCEPT AS OTHERWISE ALLOWED BY VALID
FEDERAL OR STATE PERMITS OR LICENSES RELATIVE TO WATER
POLLUTION, WATER IMPOUNDMENT OR WATER QUALITY CONTROL.]

(AO No. 79-63)

Section 8. Anchorage Municipal Code section 15.40.030 is hereby renumbered and
amended to read as follows:

21.67.040 [15.40.030] Sewer construction standards.

No sewer, sewage treatment plant, or other facility shall be constructed, and no
substantial change in any sewer, sewage treatment plant or other sewage facility, shall
be made until plans and specifications conform with the requirements of the
department and the state Department of Environmental Conservation.

(GAAB 26.10.020)

Section 9. Anchorage Municipal Code section 21.67.010 is hereby renumbered and
amended to read as follows:

21.67.050[010] Storm water runoff restrictions and system plan review.

[A. DEFINITIONS. AS USED IN THIS CHAPTER:

STORMWATER MEANS SURFACE WATER RUNOFF ORIGINATING
FROM SURFACE WATER, SNOWMELT, WASH WATERS, STREET
WASH, SUBSURFACE DRAINAGE, OR OTHER DRAINAGE BUT

EXCLUDES WASTEWATER AS DEFINED IN TITLE 15 OF THE ANCHORAGE MUNICIPAL CODE.]

A[B]. The director [OF PUBLIC WORKS] shall develop, implement, and maintain the Storm Water Treatment Plan Review Guidance Manual, incorporated herein by reference, which shall be used to develop, review, and approve storm water runoff system plans for projects which discharge storm water into or onto land, surface water, or groundwater within the municipality. [ANCHORAGE MUNICIPAL CODE CHAPTER 21.67 REGULATES STORMWATER DISCHARGE AND SHALL BE READ IN CONJUNCTION WITH OTHER PROVISIONS OF LAW, INCLUDING BUT NOT LIMITED TO, CHAPTERS 15.40, 15.50, 15.65, 21.85 AND 23.15. DEVELOPMENTS IN SUBDIVISIONS AND ON INDIVIDUAL LOTS SHALL CONFORM TO OTHER PROVISIONS OF LAW.]

B[D]. Any person who constructs, alters, installs, modifies, or operates a storm water treatment or disposal system shall comply with the *Storm Water Treatment Plan Review Guidance Manual* established by the director regarding storm water runoff system plan requirements and plan reviews, and if necessary, gather data to confirm storm water conditions.

C. Any person who disturbs the ground or performs land clearing shall comply with the Storm Water Treatment Plan Review Guidance Manual, regarding storm water runoff requirements and plan reviews. In conjunction with these water quality controls and storm water treatment, there shall be a permit required for land clearing operations, which shall conform to the applicable standards, requirements, and future amendments identified in Section D. In those areas of the Municipality regulated by the Land Use Permit process, a land clearing permit application shall be available for review and issuance independently of the land use permit.

D[E] If construction, alteration, installation, modification or operation has not begun within one year [TWO YEARS] after issuance of plan approval, the approval is void, and plans shall be resubmitted to the department [OF PUBLIC WORKS] for review and approval.

E. Standards for Issuance

Unless specifically exempt under subsection G., all land clearing activities shall conform to applicable municipal standards and requirements identified in the following, and their future amendments:

1. This title,
2. Title 23,
3. NPDES-Storm Water Best Management Practices from the Storm Water Treatment Plant Review Guidance Manual,
4. Design Criteria Manual,

5. Erosion and Sediment Control Material Containment Guidance Manual.
6. For land clearing activities on lots prior to development there shall be a temporary native vegetation buffer retained on the perimeter of each lot equal to, or greater than, the specified minimum yard setbacks for that site's zoning district. This temporary native vegetation buffer shall be at least 15' wide on the perimeter of lots in Commercial and Industrial Zoning Districts, except where these are adjacent to PLI and/or Residential zoning districts, where the temporary buffer shall be a minimum 30' wide. Those areas of temporary native vegetation buffers in Commercial and Industrial Zoning Districts not essential to the parcel's development shall be retained as native vegetation buffers and protected from disturbance.

F. Submittal Requirements

1. In addition to other required submittals for the requested land clearing permit and associated water quality controls and storm water treatment methods, where applicable, a site plan, subdivision plat and plat notes, as applicable, landscape plan, topographical information, construction details, diagrams, photographs or other medium available to clearly communicate the following information shall be submitted with the land clearing permit application.
2. Documentation of vegetation and/or landscaping that will be retained.
3. Information and depiction of Title 21 and/or other required landscaping, non-disturbance and setback requirements.
4. Details of land clearing techniques with applicable plans and specifications for erosion control and site restoration methods.
5. Details and specifications for tree, vegetation, and buffer protection methods.

G. The following activities are exempt from the land clearing permitting requirements in this section. These exemptions do not override the requirements of any other applicable section of this title or other municipal, state or federal requirements or regulations.

1. Emergencies. Selective clearing or selective removal of dead, decaying, or diseased trees, or removal of vegetation from public and private property upon order (which order may be by electronic or hard-copy memorandum, or telephone call, recorded in writing and dated) of the Police, Fire, or Emergency Services Departments, if it is determined the condition contributes to or presents an imminent safety or property threat. If the removed vegetation is required landscaping, it must be replaced by the property owner by the end of the next growing season.
2. Commercial Nurseries, Sod Farms or Tree Farms. Removal of vegetation, which is being grown for sale or distribution in commercial nurseries, sod or tree farms.

3. Fire Safety Defensible Space. Vegetation may be removed for fire management and for the purpose of providing fire safety defensible space according to standards and/or upon approval by the Fire Marshall or the Fire Chief or designee.
4. Developed Lots. Vegetation may be cleared, replaced, topped or thinned, provided the land clearing activity conforms to relevant standards, and this title.
5. Undeveloped Lots. For the purpose of public safety, vegetation thinning may occur to create visibility on lots to prevent illegal activities, trespass, or emergency access. Clearing and thinning is permitted as necessary for private gardens and other similar landscaping-related property improvements.
6. Firewood. Tree felling and removal activities associated with non-commercial firewood gathering.
7. Maintenance of Parks, School Sites, Trails, Greenbelts, etc. Removal or thinning of vegetation according to the requirements and standards of relevant municipal and state departments for improving visibility and access into public areas for safety and maintenance purposes.
8. Utilities. "Certified utilities shall be allowed to clear, grub, trim, prune, remove trees or brush in order to maintain their facilities in accordance with applicable codes, for maintenance access for repair or replacement of facilities and for the safety of their employees and the public. Utilities shall use prudent vegetation management practices with the goal to minimize disturbance of vegetation and the ground in the performance of this work.
9. Soils Testing, Septic Site Evaluations, and Land Surveying. Minor Land Clearing typical for access to and necessary for conducting soils tests, septic site evaluations and land surveying is permitted in conformance with applicable codes and the standards set forth in this title.

H[C]. The director [DEPARTMENT OF PUBLIC WORKS] may, in his [ITS] discretion, issue a project-wide approval to a person who plans to conduct an operation with the same runoff characteristics at various discharge locations. The director [DEPARTMENT OF PUBLIC WORKS] may, in his [ITS] discretion, require the submission of site-specific plans, including a schedule and description of all planned discharge activities, for approval. The director [DEPARTMENT OF PUBLIC WORKS] may, in his [ITS] discretion, restrict that approval to certain proposed discharge activities. [IN ADDITION TO THE APPLICABLE APPROVAL FEE REQUIRED UNDER SUBSECTION F. OF THIS SECTION,] T[t]he applicant shall pay to the department [OF PUBLIC WORKS] the fee required under section 21.67.060 [SUBSECTION ____ F. OF THIS SECTION] for each site-specific plan review. The applicant shall pay the fee prior to permit issuance [AT THE TIME A SITE-SPECIFIC PLAN IS SUBMITTED TO THE DEPARTMENT OF PUBLIC WORKS, OR AT THE TIME OF PERMIT ISSUANCE].

[F. BEFORE THE DEPARTMENT OF PUBLIC WORKS MAY ISSUE APPROVAL UNDER THIS SECTION, A PERSON SEEKING THE APPROVAL SHALL PAY THE DEPARTMENT OF PUBLIC WORKS AT THE TIME OF APPLICATION A FEE TO BE SET BY REGULATION.]

[G. IF THE APPLICANT FOR APPROVAL UNDER THIS SECTION WITHDRAWS THE APPLICATION BEFORE APPROVAL IS ISSUED, OR IF THE DEPARTMENT OF PUBLIC WORKS DENIES THE APPLICATION, THE UNUSED BALANCE OF THE FEE, IF ANY, SHALL BE RETURNED TO THE APPLICANT. THAT PORTION OF THE FEE USED TO REVIEW AND PROCESS THE APPLICATION BEFORE IT WAS WITHDRAWN OR DENIED SHALL BE COMPUTED BY THE DEPARTMENT OF PUBLIC WORKS. THE COMPUTATION SHALL BE BASED UPON A CHARGE OF \$65.00 PER HOUR FOR STAFF TIME SPENT IN REVIEWING AND PROCESSING THE APPLICATION, PLUS ANY COSTS INCURRED BY THE DEPARTMENT OF PUBLIC WORKS. A COPY OF THE COMPUTATION SHALL BE PROVIDED TO THE APPLICANT.]

(AO No. 98-010(S), § 1, 8-18-98)

Section 10. Anchorage Municipal Code of Regulations sections 21.67.001 and 21.67.003 are hereby repealed. Anchorage Municipal Code Chapter 21.67 is amended by adding a new section 21.67.060 to read as follows:

21.67.060 Fees.

A. A fee schedule, as follows, is hereby established for stormwater plan reviews and inspections. A municipal stormwater permit will not be issued without prior payment of the fees set out below. Inspections shall not be deemed completed until the fees for such inspections have been paid.

B. *Fees for stormwater plan review.* The stormwater plan review fee for buildings, structures, fill, excavation, clearing and grubbing, or grading shall be:

1. For buildings and structures:

Area of land disturbance	Plan Review Fee
Less than 500 square feet	No fee
Greater than or equal to 500 square feet but less than 10,000 square feet	\$150.00
Greater than or equal to 10,000 square feet, but less than 1 acre (43,560 square feet)	\$300.00
Greater than or equal to one (1) acre but less than five (5) acres (217,800 square feet)	\$450.00
Greater than five (5) acres	\$600.00

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2. Fees for land clearing and grubbing—A fee schedule, as follows, is hereby established for land clearing when such activity is not part of a development project subject to other permits.

<u>Area of land disturbance</u>	<u>Fee</u>
<u>Less than 5 acres</u>	<u>\$100.00</u>
<u>Greater than or equal to five (5) acres</u>	<u>\$150.00</u>

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3. For fill, excavation, or grading:

Amount of Material	Plan Review Fee
50 cubic yards or less	No fee
51 to 100 cubic yards	\$15.00
101 to 1,000 cubic yards	\$22.00
1,001 to 10,000 cubic yards	\$30.00
10,001 to 100,000 cubic yards	\$30 for the first 10,000 cubic yards, plus \$15.00 for each additional 10,000 cubic yards or fraction thereof
100,000 cubic yards or more	\$165.00 for the first 100,000 cubic yards, plus \$9.00 for each additional 10,000 cubic yards or fraction thereof

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4. For street, right-of-way, and public improvement projects, the storm water plan review fee will be as stated in Anchorage Municipal Code Section 24.20.040.

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5. Inspection fees:

Commercial permits	\$520.00
Commercial permit, land use area	\$520.00
Single family/duplex	\$150.00
Single family/duplex, land use area	\$175.00
Re-inspection	\$150.00

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6. Other fees:

a. Additional storm water treatment plan review required for changes, additions, or revisions to approved plans:	\$100.00 per hour with one-half hour minimum charge.
b. Storm water treatment plan site investigations or inspections:	\$100.00 per hour with one-hour minimum charge.
c. Code compliance inspections:	\$70.00 per hour per inspector with one-hour

- | | | | |
|----|------------------------------------------------|--------------------------------|--------------------------------------------------------------------|
| d. | Requested inspections outside business hours: | code compliance outside normal | minimum charge.
\$100.00 per hour with two-hour minimum charge. |
| e. | Requested inspections on Sundays and holidays: | code compliance on Sundays and | \$140.00 per hour with two-hour minimum charge. |

2 C. The director may authorize refunding of a fee paid hereunder, which was
3 erroneously paid or collected, or refunding not more than 80 percent of the fee
4 paid when an application for a permit is withdrawn or canceled before any
5 examination time has been expended.

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7 D. The director shall not authorize the refunding of any fee paid except upon
8 written application filed by the original permittee not later than 360 days after
9 the date of fee payment.

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11 **Section 11.** Anchorage Municipal Code section 15.40.060 is hereby renumbered and
12 amended to read as follows:

13
14 **21.67.070[15.40.060] Inspections.**

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16 A. *Inspections authorized.* The director [WATERSHED MANAGER] or law
17 enforcement officials may, without an administrative inspection warrant,
18 during the normal working hours of a business or activity, and upon
19 presentation of proper identification, inspect those nonresidential
20 [INDUSTRIAL] facilities, construction sites, premises, or areas for the
21 purpose of determining whether the owner or operator thereof is conducting
22 that business or activity in accordance with the specific requirements of this
23 chapter. If inspection or access is denied, any permits issued under this
24 chapter may be immediately suspended until an inspection is conducted.
25 Permittees, owners or operators shall immediately stop all work upon the site
26 being posted with a stop work order for failure to allow inspection. Fees for
27 inspections shall be paid in accordance with section 21.67.060.

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29 B. *Administrative inspection warrants.* No inspection for which a warrant would
30 be required under the constitution of the state or the United States may be
31 conducted under this section unless the director [WATERSHED MANAGER]
32 or law enforcement officials first obtains an administrative inspection warrant
33 authorizing that inspection, and if possible exhibit the warrant to the owner or
34 operator of the activity. In cases where it is constitutionally required, the
35 director [WATERSHED MANAGER] or law enforcement officials shall
36 apply to the trial courts of the state for inspection warrants and shall state the
37 name and address of the controlled premises to be inspected, the authority to
38 make the inspection, the nature and extent of the inspection, and the facts
39 demonstrating the need for the administrative inspection. The court shall issue
40 a warrant if it finds that issuance is constitutionally permissible. Warrants

issued under this section shall be exhibited to persons in control of premises described in the warrant and shall be executed peaceably, without violence or harm to persons or property, if possible. Warrants issued under this section shall be returned to the court within ten days.

C. *Production of records.* At the request of the director [WATERSHED MANAGER] or law enforcement officials, and during normal working hours, owners or operators of [INDUSTRIAL] facilities, construction sites, premises, or areas, or persons having custody of such records shall produce and make available for inspection and copying all records or information required to be maintained or reported under the provisions of this chapter.

D. *Inspection without warrant.* In addition to inspections of [BUSINESS OR INDUSTRIAL] facilities under subsections A through C of this section, the director [WATERSHED MANAGER] or any law enforcement official, may, without an administrative inspection warrant, inspect any property or facilities suspected as the source of illicit discharges in violation of 33 USC 1342 (1987), as amended. If a warrant is constitutionally required, then it must comply with the requirements of subsection B of this section.

E. *Inspection prior to work.* All construction or development requiring the installation of storm water treatment methods shall be inspected, as resources allow, prior to any demolition or construction activity on the site, including the removal of vegetation commonly known as clearing and grubbing.

(AO No. 94-113, § 4, 8-25-94)

Section 12. Anchorage Municipal Code section 15.40.070 is hereby repealed. Anchorage Municipal code chapter 21.67 is hereby amended by adding a new section to read as follows:

21.67.080 Penalties.

A. All sites operating without approved and properly installed storm water treatment methods or without a land clearing permit may be immediately posted with a stop work order and shall pay double fees for all required permits or inspections under this chapter, in addition to any fines which may be assessed. In addition to any other remedy permitted by law, including injunctive relief, fines may be assessed for failure to have a permit or approved plan, failure to allow inspections, or failure to obey a properly issued stop work order.

B. Any person who negligently or intentionally permits or causes a discharge in violation of this chapter shall, upon conviction, be subject to a civil fine penalty of up to \$1,000.00, or injunctive relief to cease the violation, or both. In addition to any fine assessed under this section, any person who violates any provision of this chapter or any rule or regulation adopted pursuant to this chapter shall be subject to a further civil penalty of up to double the cleanup and remediation costs incurred as a result of the violation.

- 2 C. Any person who permits or causes a discharge in violation of this chapter
3 shall be strictly liable, regardless of intent, for the full amount of any fines or
4 other liquidated penalties incurred by the municipality for any violations of
5 federal law which are caused by the discharge.
6
- 7 D. Any person who does land clearing on property without a permit in violation
8 of this chapter shall be subject to a civil fine penalty between \$300.00 and
9 \$3,000.00 per day, or injunctive relief to cease the violation, or both.
10
- 11 E. In addition to any fine assessed under this section for a failure to obtain the
12 required permit, any person who violates any provision of this chapter or any
13 rule or regulation adopted pursuant to this chapter shall be subject to a further
14 civil penalty of up to double the cleanup and remediation costs incurred as a
15 result of the violation.
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- 17 F. The fees and penalties which may be assessed pursuant to this section shall be
18 a prior and paramount lien on the real property on which the violation
19 occurred. The lien attaches upon the imposition of the fine or penalty.
20 Thereafter, the Municipality shall file notice of the lien in the Anchorage
21 Recording District. The Notice shall state the legal description, the name of
22 the property owner and the amount of the fine or penalty. Civil actions to
23 collect the fine or penalty or to foreclose on the real property shall proceed as
24 provided by ordinance for the collection of real property taxes.
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- 27 [A. ANY PERSON WHO NEGLIGENTLY OR INTENTIONALLY PERMITS
28 OR CAUSES A DISCHARGE IN VIOLATION OF SECTION 15.40.010,
29 SECTION 15.40.020 OR SECTION 15.40.040 SHALL, UPON
30 CONVICTION, BE SUBJECT TO A CIVIL FINE PENALTY OF UP TO
31 \$300.00, OR INJUNCTIVE RELIEF TO CEASE THE VIOLATION, OR
32 BOTH. IN ADDITION TO ANY FINE ASSESSED UNDER THIS
33 SECTION, ANY PERSON WHO VIOLATES ANY PROVISION OF THIS
34 CHAPTER OR ANY RULE OR REGULATION ADOPTED PURSUANT
35 TO THIS CHAPTER SHALL BE SUBJECT TO A FURTHER CIVIL
36 PENALTY OF UP TO DOUBLE THE CLEANUP AND REMEDIATION
37 COSTS INCURRED AS A RESULT OF THE VIOLATION.]
38
- 39 [B. ANY PERSON WHO PERMITS OR CAUSES A DISCHARGE IN
40 VIOLATION OF THIS CHAPTER SHALL BE STRICTLY LIABLE,
41 REGARDLESS OF INTENT, FOR THE FULL AMOUNT OF ANY FINES
42 OR OTHER LIQUIDATED PENALTIES INCURRED BY THE
43 MUNICIPALITY FOR ANY VIOLATIONS OF FEDERAL LAW WHICH
44 ARE CAUSED BY THE DISCHARGE.]
45
- 46 [C. THE PROVISIONS OF THIS CHAPTER MAY BE ENFORCED BY THE
47 WATERSHED MANAGER OR ANY LAW ENFORCEMENT OFFICER.]
48

(AO No. 94-113, § 5, 8-25-94)

Section 13. This ordinance shall be effective immediately upon passage and approval by the Anchorage Municipal Assembly.

PASSED AND APPROVED by the Anchorage Assembly this day of
_____, 2002.

Chair

ATTEST:

Municipal Clerk

Municipality of Anchorage
MUNICIPAL CLERK'S OFFICE
Agenda Document Control Sheet

A10 2002-113

(SEE REVERSE SIDE FOR FURTHER INFORMATION)

1	SUBJECT OF AGENDA DOCUMENT <div style="border: 1px solid black; padding: 5px; display: inline-block; margin-top: 10px;"> AO 2002-113 2002 NOV -7 PM 4:17 CLERKS OFFICE </div>	DATE PREPARED 7-Nov-02 Indicate Documents Attached <input type="checkbox"/> AO <input type="checkbox"/> AR <input checked="" type="checkbox"/> AM <input type="checkbox"/> AIM	
2	DEPARTMENT NAME Assembly	DIRECTOR'S NAME Greg Moyer	
3	THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY	HIS/HER PHONE NUMBER	
4	COORDINATED WITH AND REVIEWED BY	INITIALS	DATE
X	Mayor		
	Heritage Land Bank		
	Merrill Field Airport		
	Municipal Light & Power		
	Port of Anchorage		
	Solid Waste Services		
X	Water & Wastewater Utility		
X	Municipal Manager		
	Cultural & Recreational Services		
	Employee Relations		
X	Finance, Chief Fiscal Officer		
	Fire		
	Health & Human Services		
X	Office of Management and Budget		
	Management Information Services		
	Police		
	Planning, Development & Public Works		
	Development Services		
	Facility Management		
	Planning		
	Project Management & Engineering		
	Street Maintenance		
	Traffic		
	Public Transportation Department		
	Purchasing		
X	Municipal Attorney		
	Municipal Clerk		
	Other		
5	Special Instructions/Comments		
	<div style="text-align: center;"> <i>Special Order</i> <i>Special Mtg. 11/14/02</i> </div>		
6	ASSEMBLY HEARING DATE REQUESTED <i>11/18/02</i>	7	PUBLIC HEARING DATE REQUESTED <i>11/26/02</i>