ORDINANCE NO. 2018 - 2020 - 002

ORDINANCE REPEALING ARTICLE VI OF CHAPTER 38 OF THE CODE OF ORDINANCES OF THE CITY OF TRUSSVILLE AND CREATING NEW A NEW ARTICLE IN CHAPTER 38 OF THE CODE OF ORDINANCES OF THE CITY OF TRUSSVILLE THAT ESTABLISHES STANDARDS FOR EROSION CONTROL, STANDARDS FOR ILLICIT DISCHARGE, AND STANDARDS FOR POST-CONSTRUCTION STORMWATER MANAGEMENT WITHIN THE CORPORATE LIMITS OF THE CITY OF TRUSSVILLE, ALABAMA.

RECITALS

WHEREAS, the sedimentation of streams, lakes and other waters of this state constitutes a major pollution problem; and

WHEREAS, sedimentation occurs from the erosion or depositing of soil and other materials into the waters, and control of erosion and sedimentation is deemed vital to the public interest and is necessary to the public health and welfare, and expenditures of funds for an erosion and sedimentation control program shall be deemed to benefit the public health and welfare; and

WHEREAS, the purpose of this ordinance is to provide for the creation, administration, control and enforcement of a program to reduce erosion and sedimentation problems pursuant to the National Pollutant Discharge Elimination System ("NPDES") permit ALS000015 from Alabama Department of Environmental Management ("ADEM") for storm water discharges from the Municipal Separate Storm Sewer System of the City of Trussville, Alabama, ("MS4"), which will permit the development in the City of Trussville, ("City") to continue with the least detrimental effects from pollution by sedimentation; and

WHEREAS, ADEM, pursuant to the authority delegated to it under the Clean Water Act, 33 U.S.C. Section 1251, *et seq.*, has required City to obtain a NPDES permit for storm water discharges from the MS4, effective March 1, 1995 and, therefore, City is subject to the federal storm water laws and regulations contained in 33 U.S.C. § 1342 (P) and 40 C.F.R. § 122.26, and is required to adopt a local erosion control ordinance. Act No. 95-775 of the Alabama State Legislature (Code of Alabama 1975, § 11-89C 1-14) and other provisions of the Code of Alabama 1975 grant the authority to adopt such ordinances to the governing bodies of all Class 8 municipalities within the State of Alabama and to the governing bodies of all other municipalities located within such counties, and where any such other municipality is also located partially within an adjoining county, then the governing body of such adjoining county and which governing bodies are specifically designated in 40 C.F.R. part 122, Appendices F, G, H or I or by ADEM pursuant to the authority delegated to it under the Clean Water Act, 33 U.S.C. Section 1251, et *seq.*; and

WHEREAS, it is the purpose of this ordinance to protect and maintain the environment of the City and the short-term and long-term public health, safety and general

welfare of the citizens of the City by controlling discharges of pollutants to the City's MS4, thereby, maintaining and improving the quality of the community waters into which the storm water outfalls flow, including, without limitation, the lakes, streams, ponds, wetlands, sinkholes, and groundwater of the City; and

WHEREAS, this ordinance controls the discharge of certain non-storm water to the MS4 from land on which land-disturbing activities are conducted, to the maximum extent practicable, and provides enforcement procedures and penalties to ensure compliance with such controls; and

WHEREAS, it is further the purpose of this ordinance to enable the City to comply with the NPDES permit and applicable regulations (40 C.F.R. § 122.26) for storm water discharges; and

WHEREAS, objectives of this ordinance include, but are not limited to, control (i) the contribution of pollutants to the MS4 by storm water discharges associated with land-disturbing activities and control (ii) the quality of storm water discharged to the MS4 from sites of land-disturbing activity; prohibit illicit discharges to the MS4; control the discharge to the MS4 of any spills, dumping, or disposal of materials other than storm water from sites of land-disturbing activity; and carry out all inspections, surveillance, and monitoring procedures necessary to determine compliance and noncompliance with land-disturbing activity permits; and

WHEREAS, the purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the City of Trussville through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law; and

WHEREAS, this ordinance establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the national pollutant discharge elimination system (NPDES) permit process.

WHEREAS, this ordinance provides the minimum content for implementing and enforcing a Storm water management consistent with the Alabama Department of Environmental Management (ADEM) permit currently issued to the City of Trussville; and

WHEREAS, the objectives of this ordinance is to regulate the contribution of pollutants to the municipal separate storm sewer system (ms4) by storm water discharges by any use, to prohibit illicit connections and discharges to the ms4, and to establish legal authority to carry out all inspections, surveillance, and monitoring procedures necessary to ensure compliance; and

WHEREAS, the City of Trussville operates under the requirements of the Alabama Department of Environmental Management (ADEM) National Pollutant Discharge Elimination System (NPDES) Permit; and

WHEREAS, this permit authorizes stormwater discharges from regulated small municipal separate storm sewer systems (MS4); and

WHEREAS, the City of Trussville must be compliant with the ADEM NPDES Permit by developing, implementing, and enforcing a program to address post-construction stormwater management; and

WHEREAS, the City of Trussville finds it necessary to enact an ordinance to address and enforce post-construction stormwater management standards on Qualifying Sites to prevent or minimize water quality impacts and ensure that the volume and velocity of pre-construction stormwater runoff is not significantly exceeded for the life of the property's use to the maximum extent practical (MEP).

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Trussville, Alabama, that Ordinance Number 2019-002-ADM, presently codified in Article VI of Chapter 38, is repealed in its entirety.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Trussville, Alabama, a new article in Chapter 38 of the Code of Ordinances of the City of Trussville, that shall be appropriately codified, is created as follows:

DIVISION I. EROSION AND SEDIMENTATION CONTROL

SECTION A. DEFINITIONS.

For the purposes of this ordinance, the following words and terms shall have the meaning assigned to them in this section.

Accidental Discharge - a discharge prohibited by this Article into the MS4 or community water which occurs by chance and without planning or consideration prior to occurrence.

Adverse Impact - any deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property or to biological productivity, diversity or stability, or which would unreasonably interfere with the enjoyment of life or property.

Agriculture - activities undertaken on land for the production of plants, crops, and animals which are useful to man.

Alabama Department of Environmental Management (herein abbreviated as "ADEM") - the State of Alabama regulatory agency, created under Code of Alabama 1975, § 22-22A-1, et seq., responsible for administering and enforcing the storm water laws of the United States of America and the State of Alabama.

Applicant - any person, firm, corporation or governmental agency who executes the necessary forms to procure approval of Best Management Practices Plans from the Official.

Best Management Practices (herein abbreviated as "BMP") - activities, prohibitions of practices, maintenance procedures and management practices designed to prevent or reduce the pollution of waters to the MS4. Best Management Practices also include treatment requirements, operating procedures and practices to control facility site runoff, spillage or leaks, sludge or waste disposal or drainage from raw material storage and construction sites.

Best Management Practices Plan (herein abbreviated as "BMP Plan") - a set of drawings and/or other documents submitted by a person as a prerequisite to obtaining a Permit, which contain all of the information and specifications pertaining to BMP.

Clean Water Act (herein abbreviated as "CWA") - the federal act (33 U.S.C. § 1251 through § 1387) which was formerly referred to as the Federal Water Pollution Control Act and Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 6-483 and Public Law 97-117, 33 U.S.C.§ 1251-1387.

Clearing - the removal of trees and brush from the land, not including the ordinary mowing of grass or the maintenance of previously cleared areas.

Community Waters - any or all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells and other bodies of natural or artificial surface or subsurface water into which the MS4 outfalls flow.

Contour - a line of equal elevation above a specified datum, usually mean sea level.

Contour Line - a line joining points having or representing equal elevations.

Discharge - the passing of water or other liquid through an opening or along a pipe, conduit or channel; the rate of flow of water, silt, or other mobile substance which emerges from a pipe, conduit or channel, usually expressed as cubic feet per second, gallons per minute or million gallons per day.

Drainage - the removal of surface water from a given area either by gravity or by pumping; commonly applied to surface water and groundwater.

Drainage Area - that area contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridge line; the area of a drainage basin or watershed, expressed in acres, square miles or other unit of area.

Engineer - a person currently licensed by the Alabama State Board of Registration for Professional Engineers and Land Surveyors to provide engineering services.

Erosion - wearing away of lands by running water.

Erosion Control - the application of measures to reduce erosion of land surfaces.

Grading - any act by which soil is cleared, stripped, stockpiled, excavated, scarified or filled, or any combination thereof.

Illicit Connection - any man-made conveyance connecting an illicit discharge directly to the MS4.

Illicit Discharge - any discharge that is not composed entirely of storm water, except discharges pursuant to a NPDES permit (other than NPDES Permit ALS000001) and discharges which are specifically excepted from this ordinance.

Minor Extension - an addition to an existing utility pipeline or other utility line in which the land disturbed consists of fewer than 7,500 linear feet.

Municipal Separate Storm Sewer (herein abbreviated as "MS3") - a conveyance or conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels and storm drains), owned or operated by a city, town or county or other public body (created by, or pursuant to, State law) having jurisdiction over storm water.

Municipal Separate Storm Sewer System (herein abbreviated as "MS4") - a system of municipal separate storm sewers, as defined hereinbefore.

NPDES - National Pollutant Discharge Elimination System.

Outfall - a point source (meaning any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container rolling stock, concentrated animal feeding operation, landfill leach ate collection system, vessel or other floating craft from which pollutants are or may be discharged, but not including return flows from irrigated agriculture or agricultural water runoff) at the point of a discharge to waters of the United States of America.

Permit - any permit issued pursuant to this ordinance.

Permittee - a person, party, government entity and all others who receive a permit to discharge under the NPDES.

Pollutant - includes, but is not limited to, the pollutants specified in Code of Alabama 1975, § 22-22-1(b) (3) and any other effluent characteristics specified in a Permit.

Pollutant Loading - the amount of a pollutant entering the MS4.

Qualified Credentialed Professional - a Certified Professional in Erosion and Sediment

Control ("CPESC") as determined by the Soil and Water Conservation Society ("SWCS") or the International Erosion Control Association ("IECA"). Other registered or certified professionals such as a professional engineer or a landscape architect, registered land surveyor, registered architect, registered geologist, registered forester, Registered Environmental Manager as determined by the National Registry of Environmental Professionals ("NREP"), Certified Professional Soil Scientist ("CPSS") as determined by the American Registry of Certified Professionals in Agronomy, Crops and Soils ("ARCPACS"), who can document the necessary education, training, and professional certification, registration, or credentials acceptable to the Official and can demonstrate proven experience in the field of erosion and sediment control shall be considered a qualified credentialed professional. The qualified credentialed professional must be in good standing with the authority granting the registration. The qualified credentialed professional must be familiar, and have expertise, with current industry standards for erosion and sediment controls and must be able to inspect and assure that nonstructural BMPs or other pollution control devices (silt fences, erosion control fabric, rock check devices, etc.) and erosion control efforts, such as grading, mulching, seeding and growth management, or management strategies have been properly implemented and regularly maintained according to good engineering practices and the requirements of this permit. A professional engineer ("PE") registered in the state of Alabama must certify the design and construction of structural practices such as spill prevention control and counter measures ("SPCC") plan containment structures, dam construction, etc.

Sediment - solid material settled from suspension in a liquid that has been transported and deposited from its site of origin by air, water, ice or gravity as a product of erosion and has come to rest on the earth's surface either above or below a water surface, usually, inorganic or organic particles originating from weathering, chemical precipitation, or biological activity.

Silviculture - the care and cultivation of forest trees, including site preparation, planting, pruning, thinning and harvesting.

Site - any tract, lot or parcel of land or combination of contiguous tracts, lots or parcels of land which are in one ownership, and any combination of tracts, lots and parcels which are contiguous, are owned by two or more parties and are to be developed as a unit, subdivision or project.

Stabilization - the prevention of soil movement by any of various vegetative and/or structural means.

Storm Water - the excess water running off from the surface of a drainage area during and immediately after a period of rain. It is that portion of the rainfall and resulting surface flow that is in excess of that which can be absorbed through the infiltration capacity of the surface of the basin.

Storm Water Management - the incorporation of a variety of activities and equipment into a plan to address concerns associated with Storm Water for the purpose of preventing pollution, improving water quality, keeping pollutants out of runoff, and the implementation of Best Management Practices.

Storm Water Management Program (herein referred to as "the Management Program" or "the Program") - a program which covers the duration of the permit. It shall include a comprehensive planning process which involves public participation and, where necessary, intergovernmental coordination, to reduce the discharge of pollutants, to the maximum extent practicable, using management practices control techniques and system design and engineering methods and such other provisions which are appropriate.

Storm Water Permit - a permit which grants permission to the holder to discharge storm water to the MS4 under the NPDES.

Stream - a course of running water usually flowing in a particular direction in a definite channel and discharging into some other course of running water or body of water.

Structural Controls - measures incorporated into existing Storm Water drainage systems or newly constructed systems to prevent or minimize the discharge of pollutants for the purpose of maintaining and/or improving water quantity and quality management; quantitative control by a system of vegetative and structural measures that control the increased volume and rate of surface runoff caused by man-made changes to the land; qualitative control by a system of vegetative, structural and other measures that reduce or eliminate pollutants that might otherwise be carried by surface runoff.

Turbidity - a condition in water or wastewater caused by the presence of suspended matter, resulting in the scattering and absorption of light rays. A measure of fine suspended matter in liquids.

Utility - a business or service which is engaged in regularly supplying the public with some commodity or service which is of public consequence and need, such as electricity, gas, water, telephone service and telegraph service.

Variance - the modification of the minimum storm water management requirements in situations in which exceptional circumstances, applicable to the site with respect to which the variance is requested, exist so that strict adherence to the provisions of this ordinance would result in unnecessary hardship and the granting of such modification would not result in a condition contrary to the intent of this ordinance.

SECTION B. ADMINISTRATION.

The municipal engineer for the City, the municipal official or employee who is a qualified credentialed professional, such other municipal official or municipal employee who passed

and obtained certification as a qualified credentialed inspector ("QCI") and enables him or her to enforce the provisions of this ordinance, an individual or agency contracted to provide such service, shall be responsible, on behalf of the City ("Official"), to enforce the provisions of this ordinance (whenever the word "Official" or the phrase "authorized City official" is used in this ordinance, it shall include the authorized agent of the Official).

SECTION C. APPLICATION AND FEES.

1) Application- Generally.

(a) Before the commencement of any land-disturbing activity that is not exempted from obtaining a Permit under this ordinance, the owner of the land on which such activity shall be conducted, or his duly authorized agent, must file with the City of Trussville an application for the approval of the owner's BMP Plan. The Official must either approve or disapprove the BMP Plan within fourteen (14) calendar days of the day it is filed with the Official. If the BMP Plan is disapproved, the Official must inform the Applicant, in writing, of the reasons for its disapproval. If the Applicant, on one or more occasions, revises the BMP Plan or submits to the Official additional documents or information in connection with the BMP Plan, the Official must make a written response to the Applicant with respect to whether such revised BMP Plan and/or additional documents and information have been approved or disapproved by the Official. All such additional responses must be made by the Official to the Applicant within fourteen (14) calendar days of the day such revised BMP Plan or additional documents or information are submitted to the Official. The land-disturbing activity may not be commenced prior to the issuance of the Permit by the Official. The issuance of the Permit shall not excuse the owner from the need to obtain other required state and local permits or licenses.

(b) The minimum standards for the issuance of a Permit must meet the requirements of this ordinance.

(c) Facilities that are covered under an ADEM NPDES permit for storm water discharge associated with construction activities ("ADEM NPDES permit") shall submit an ADEM Notice of Registration (NOR) with their application. The Notice of Intent (NOI) may be provided until the NOR is received from ADEM. Copies of all monitoring data and reports shall be submitted to the City in the same manner as they are submitted to ADEM and in the frequency specified by the City.

2) Data Required On the Application for A Permit.

(a) All applications for a Permit must include the following information:

(i) name of Applicant;

(ii) telephone number of applicant, telecopier number, if any, of applicant, and e-mail address, if any, of Applicant;

(iii) address where Applicant, or other person who can furnish information about the land-disturbing activity can be reached;

(iv) name, address, telephone number, telecopier number, if any, and e-mail address, if any, of the owner of the project, the owner of the property on which the project is to be located and the ground lessee of the property, if any, on which the land-disturbing activity is to be conducted if the applicant is not the owner of the project and such property;

(v) legal description and address, if any, of the property upon which the land-disturbing activity is to be conducted;

(vi) names, addresses, telephone numbers, telecopier numbers, if any, and e-mail addresses, if any, of all contractors and subcontractors who shall implement any BMP Plan; provided, however, that if the contractor and the subcontractors have not been selected when the application for a permit is filed, the Applicant shall furnish such information to the Official within seven (7) calendar days after the contractor and/or subcontractors are selected;

(vii) name, address, telephone number, telecopier number, if any, and e-mail address, if any, of the qualified credentialed professional who has approved the BMP Plan application (this is required for all land-disturbing activities except those related to the construction of individual single-family residences); and

(viii) each application for a Permit must be accompanied by a map or a plot of the land on which the land-disturbing activity will be conducted and any other information that is required under the provisions of this Section E in this Division.

(b) The detail of the BMP Plan must be commensurate with the size of the project, severity of the site condition and potential for off-site damage, as provided in Section E of this Division.

3) Amended Application; Transfer of Permit.

(a) A Permit may be amended, with the payment of an additional fee of Fifty Dollars ($50.00), upon the filing with the Official of an amended or restated Permit application, containing all changes from the original application; provided, that the holder of the Permit shows to the reasonable satisfaction of the Official that there are no proposed changes which may affect the quantity and/or quality of storm water runoff. If an amended or restated application is filed with the Official with respect to land-disturbing activities for which a Permit has been issued, such existing Permit shall continue in effect, and the holder of the Permit may continue to operate under it unless and until an amended Permit is issued in response to the amended or restated application ("Amended Permit") at which time the original Permit shall expire and all land-disturbing activities must be conducted in accordance with the Amended Permit.

(b) A Permit may be transferred, with the payment of an additional fee of Fifty Dollars ($50.00), upon the filing with the Official of an application for transfer; provided, that the holder and proposed transferee of the Permit show to the reasonable satisfaction of the Official that, upon or following the transfer, there will be no proposed changes which may affect the quantity and/or quality of storm water runoff. If there is a request for the transfer of a Permit and there are to be one or more changes in the operation of the project which is the source of the land-disturbing activity which may affect the quantity and/or quality of storm water runoff, the new owner or operator of such project must apply to the City for a new Permit prior to his involvement with the operation of such project.

4) Signatory Requirements.

(a) All applications and correspondence required by this ordinance to be submitted to the Official shall be signed as follows:

(i) If an application or correspondence is submitted by a corporation, it must be signed by the president of the corporation or by a vice-president of the corporation who is in charge of a principal business function of the corporation, or any other person who performs similar policy-making or decision-making functions for the corporation, or who has been authorized to sign such applications and/or correspondence by a resolution adopted by the board of directors of the corporation. Proof of the authority of the signatory shall be provided to the Official, upon his request.

(ii) If an application or correspondence is submitted by a limited liability company, it must be signed by a manager or other person who serves the same or similar function as the president of a corporation.

(iii) If an application or correspondence is submitted by a partnership, it must be signed by a general partner of the partnership.

(iv) If an application or correspondence is submitted by a sole proprietorship, it must be signed by the proprietor.

(v) If an application or correspondence is submitted by a municipality, the State or the federal government or by any municipal, state or federal agency, it must be signed by either the chief executive officer or a principal executive officer of any such government or by either the chief executive officer, a principal executive officer or a senior executive officer having responsibility for the overall operations of a principal geographic unit of any such governmental agency.

(b) Any person signing any application or correspondence required by this ordinance shall make the following certification: "I certify, under penalty of law, that this document and all attachments were prepared under my direction or supervision and that I have personally examined, and I am familiar with, the information in this document and such attachments. Based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate and

complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and civil penalty."

5) Permit Application Fee.

Each application for the issuance of a Permit shall be accompanied by a non-refundable fee of Four Hundred Dollars ($400.00), for individual single-family residences and One Thousand Dollars ($1000.00), for all other types of land disturbing activities, to help defray the City's cost of processing and reviewing the application and the inspections associated with the application. Sites that are required to have Post-Construction controls as stated in Division C of this Ordinance will have an additional fee of Two Thousand Dollars ($2,000.00) to defray the City's cost of processing and reviewing the structure's design and the associated inspection and maintenance BMPs. The applicant must submit three sets of its BMP Plan with its application and fee to the Official.

6) Post-Construction Annual Issuance Fee.

An annual issuance fee of Fifty Dollars ($50.00) will be paid to the City to defray the administrative cost of maintaining inspection records and administrating the provisions of this Ordinance.

SECTION D. EXCLUSION.

1. No person may conduct any land-disturbing activity without having obtained a Permit from the Official. If the requirement of a permit is excluded by the provisions below, the entity or individual performing the work that is excluded by paragraph 2 below must still notify the authorized official of the work being performed to ensure compliance with this Ordinance.

2. Land-disturbing activities shall include any land change which may result in soil erosion from water or wind and the movement of sediment to the MS4, including, but not limited to, the clearing, dredging, grading, excavating, transporting and filling of land, except that the term shall not include the following:

(a) Any land change on property about which the owner of the property has submitted information to the City proving, to the satisfaction of the Authorized Official, that such property does not drain to the MS4. Such information may be submitted to the Official, who shall promptly deliver it to the City, and the determination as to whether such property drains to the MS4 shall be made by the City.

(b) Agriculture.

(c) Silviculture.

(d) Such minor land-disturbing activities as home gardens, landscaping

on individual residential lots (excluding landscaping performed by, or on behalf of, a developer or builder, who builds a house on any such lot), home repairs, home maintenance work, minor additions to houses, the construction, maintenance or repair of accessory structures and other related activities which result in minor soil erosion.

(e) Minor land-disturbing activities such as individual connections for utility services and sewer services for single or two-family residences, minor grading for driveways, yard areas and sidewalks, excluding any grading done by, or on behalf of, a developer or builder in connection with the construction of a house.

(f) Minor maintenance, minor repair, and the minor extension of any existing underground public utility lines, except sewer lines; provided, that the utility company which owns such lines has received approval of a general BMP Plan from the Authority for such maintenance, repair, and extension; and provided further, that any utility company making a minor extension in connection with which the land disturbed consists of more than 1,000 linear feet must give the Official written notice of such extension prior to the commencement of such minor extension.

(g) The construction, repair or rebuilding of railroad tracks.

(h) Minor subsurface exploratory excavations under the direction of soils engineers or engineering geologists.

(i) The opening of individual burial sites in property which has been approved for such use by all necessary governmental authorities.

(j) Digging of water wells or environmental monitoring wells.

The activities referred to in items (a) through (i) above may be undertaken without a Permit. the persons conducting these excluded activities, however, shall notify the authorized City official of the activity, and the persons remain responsible for otherwise conducting such activities in accordance with the provisions of this ordinance and any other applicable law, including the proper control of sedimentation and runoff to the MS4. This ordinance shall apply to such land-disturbing activities that drain to the MS4 if a storm water pollution problem is shown to be caused by such activity following monitoring procedures and complaints.

SECTION E. BMP APPROVAL REQUIREMENTS.

1) General Requirements.

No land-disturbing activity shall be conducted within the City until a Permit has been issued by the Official allowing such activity pursuant to the provisions of this ordinance. The following are BMP approval requirements:

(a) Persons conducting land-disturbing activities shall take all reasonable measures referred to, or provided for, in this ordinance to protect all public and private property from damage caused by such activities and to reduce storm water pollution to the maximum extent practicable.

(b) No land-disturbing activities subject to this ordinance shall be undertaken except in accordance with the following requirements:

(i) The person(s) proposing to conduct any land-disturbing activity or an agent, contractor or other representative of such person must contact the Official at least ten (10) calendar days before commencement of the land-disturbing activity to advise the Official of the commencement of such land-disturbing activity, unless, for good cause shown, the Official permits such person, contractor, agent or other representative to contact him nearer to the date of the commencement of such land-disturbing activity.

(ii) Other than land-clearing activities required to install the appropriate BMP in accordance with BMP Plans, any down slope erosion and sediment control measures, on-site stream channel protection and upslope diversion of drainage required by the BMP Plan shall be in place and functional before any clearing or earth-moving operations begin and shall be constructed and maintained throughout the construction period. Temporary measures may be removed at the beginning of the workday but shall be replaced at the end of the workday.

(iii) The angle for graded slopes and fills shall be no greater than the angle, which can be retained by vegetative cover or other adequate erosion control devices or structures. Any slope or fill which has been graded shall, within ten (10) calendar days of the completion of such grading or the completion of any phase of grading, be planted or otherwise provided with ground cover, materials, devices or structures sufficient to restrain erosion. The BMPs shall remain in place in accordance with the BMP Plan until the graded slope or fill is stabilized.

(iv) Adequate protective measures shall be provided for the containment of hazardous substances and any other materials which may pollute the MS4, including petroleum products, lubricants and paint.

(v) All control measures shall be checked, and repaired as necessary, monthly in dry periods and within twenty-four (24) hours after any rainfall at the site of .75 inch within a twenty-four (24)-hour period. During prolonged rainfalls, daily checking and, if necessary, repairing shall be done. The Permittee shall maintain written records of such checks and repairs, which records shall be subject to the inspection of the Official at any reasonable time.

(vi) The BMP Plan shall show the size of disturbed area and a schedule of the projected starting and completion dates of the land-disturbing activity.

(vii) A site plan, accompanied by a written description of BMPs which are shown on the site plan and a schedule of implementation during land-disturbing activities and construction shall be furnished to the Official prior to the commencement of any land-disturbing activities.

(viii) A description of, and procedures for, proper storage, handling and disposal of construction materials stored on-site which could contribute to the pollutant loading to the MS4, shall be furnished to the Official prior to the commencement of any land-disturbing activities.

2) Design and Performance Standards.

(a) The following are required for all land-disturbing activities except those related to the construction of individual single-family residences.

(b) All applications for a Permit must contain, or be accompanied by, the materials and information necessary to satisfy the requirements of Section E(1) and Section E(2) of this Ordinance and must be accompanied by a soil erosion and sediment control plan ("Control Plan"). The Control Plan shall be prepared by a Qualified Credentialed Professional and shall include the following:

(i) The Control Plan shall be accompanied by a map or plot of the property upon which land-disturbing activities are to be conducted, prepared by a registered land surveyor, showing the present contour lines of such property, and the present contour lines of at least the nearest twenty-five (25) feet of the properties immediately adjacent to such property and the existing grades and elevations of all streets which abut such property. Such map or plot shall show all existing

drainage facilities and all natural drainage on such property and on such adjacent property.

(ii) All proposed contours, the proposed temporary and permanent disposition of surface water and the proposed drainage structures; provided, however, the Control Plans for utility projects, except sewer projects, shall not be required to show the proposed contours.

(iii) The proposed contours in the map or plot shall be depicted in contour intervals of two (2) or fewer feet; provided, however, the Control Plans for utility projects, except sewer projects, shall not be required to show the proposed contours. All maps, plots and plans submitted shall be on a sheet of paper at least twenty-four (24) inches by thirty-six (36) inches and drawn to a scale of not less than one inch equals 100 feet. Contour intervals of more than two (2) feet and maps, plots or plans which are smaller than the required size may be approved by the Official, upon written request and for good cause shown.

(iv) The Control Plan shall contain a description of the existing site conditions, a description of adjacent topographical features, the information necessary to determine the erosion qualities of the soil on the site, potential problem areas of soil and erosion and sedimentation, soil stabilization specifications, storm water management considerations, a projected time schedule for the commencement and completion of the land-disturbing activity, specifications for BMP Plan maintenance during the project and after the completion of the project, clearing and grading limits, and all other information needed to depict accurately the solutions to potential soil erosion and sedimentation problems to the MS4. The Control Plan shall include the series of BMPs and shall be reviewed by, and subject to the approval of, the Official prior to the issuance of the Permit.

(v) Where appropriate, in the opinion of the qualified credentialed professional who prepares the Control Plan, to the maximum extent practicable, the Control Plan shall include measures to reduce erosion and other adverse impact to MS4 drainage which would result from an increase in the volume of water and the rate of runoff of water during the conduct of land-disturbing activities.

(vi) Whenever the Official determines that a Control Plan does not comply with this ordinance, he shall notify the applicant in writing of the ways in which the Control Plan does not comply with this ordinance.

(vii) To the maximum extent practicable, sediment in runoff water must be minimized by using appropriate BMPs.

(viii) Structural controls shall be designed and maintained as required to minimize erosion and pollution to the maximum extent practicable. All surface water flowing toward the construction area shall, to the maximum extent practicable, either be passed through the site in a protected channel or diverted by using berms, channels or sediment traps, as necessary. Erosion and sediment control measures shall be designed, according to the size and slope of the disturbed areas or drainage areas, to minimize erosion and to control sediment, to the maximum extent practicable. Discharges from sediment basins and traps must be conducted in a manner consistent with good engineering practices. Sediment-laden, or otherwise polluted, water discharged to MS4 must be addressed in a manner consistent with good engineering practices and the requirements of this ordinance.

(ix) Control measures shall be maintained as an effective barrier to sedimentation and erosion in accordance with the provisions of this ordinance.

(x) There shall be no distinctly visible floating scum, oil or other matter contained in the storm water discharge. The storm water discharge to an MS4 must not cause an unnatural color (except dyes or other substances discharged to an MS4 for the purpose of environmental studies and which do not have a harmful effect on the bodies of water within the MS4) or odor in the community waters. The storm water discharge to the MS4 must result in no materials in concentrations sufficient to be hazardous or otherwise detrimental to humans, livestock, wildlife, plant life or fish and aquatic life in the community waters.

(xi) When the land-disturbing activity is finished and stable vegetation or other permanent controls have been established on all remaining exposed soil, the owner of the land where the land-disturbing activity was conducted, or his authorized agent, shall notify the Official of these facts, and request a final inspection. The Official shall then inspect the site within five (5) business days after receipt of the notice, and may require additional measures to stabilize the soil and control erosion and sedimentation. If additional measures are required by the Official, written notice of such additional measures shall be delivered to the owner, and the owner shall continue to be covered by the Permit issued with respect to the land-disturbing activity until a final and complete inspection is made and the Official approves the project as having been satisfactorily completed and delivers to the owner, within ten (10) calendar days

of the date of such approval, a certification of completion showing that the requirements of the Permit have been fulfilled. At that time the site and/or the project constructed thereon may come under the operation of other ordinances of the City.

(b) The Control Plan must be accompanied by a letter of credit, a surety bond or a cash bond, with the City having the right to determine which type of security shall be furnished. A letter of credit, a surety bond or a cash bond (a letter of credit, a surety bond and a cash bond shall be herein collectively referred to as "Security") shall be furnished to the City in accordance with the following provisions:

(i) The Official shall require a letter of credit, a surety bond or a cash bond in such amount as specified herein to assure that the work, if not completed or if not in accordance with the permitted plans and specifications will be corrected to eliminate hazardous conditions, erosion and/or drainage problems. In lieu of a letter of credit or a surety bond required by the City, the owner may file a cash bond with the City in an amount equal to that which would be required in the letter of credit or the surety bond.

(ii) The Security shall contain, or have attached to it as an exhibit, a legal description of the site. The Security shall remain in effect for such reasonable period of time as may be required by the Official.

(iii) The Security for clearing operations only shall be in the amount of $2,000 per acre for each acre, or fraction of an acre, disturbed or affected by such operations.

(iv) The Security for earthwork or clearing and earthwork operations shall be in the amount of $5,000 per acre for each acre, or fraction of an acre, disturbed or affected by such operations.

(v) The Security for earthwork or clearing and earthwork operations for an individual single family residence may be reduced to $3,000 with proof of completion of either the Jefferson County Erosion Workshop or the Qualified Credentialed Inspector (QCI) certification.

(vi) Security equal to double the amounts required in subsections (3) and (4) herein, shall be required where clearing or earthwork is performed in areas designated as floodways, floodplains or areas susceptible to landslides.

(vii) Each letter of credit must be issued by a bank which has its principal office in either Jefferson County or St. Clair County, Alabama.

(viii) Each letter of credit must be issued by a bank which is reasonably satisfactory to the City and each surety bond must be issued by a surety company which is qualified to do business in Alabama and which is otherwise reasonably satisfactory to the City.

SECTION F. MONITORING AND INSPECTION.

(1) The Official may periodically monitor the quality of storm water and the concentration of pollutants in storm water discharges from land-disturbing activities permitted to the MS4 pursuant to this ordinance.

(2) Inspections.

(a) The Official, bearing proper identification, may enter and inspect all land-disturbing activities for regular periodic inspections, investigations, monitoring, observations, measurements, enforcement, sampling and testing to verify compliance with the provisions of this ordinance and the specific BMP Plans and Control Plans for such land-disturbing activities. The Official shall notify the owner of such property, his Contact Person or his representative on the construction site prior to inspection, and the inspections shall be conducted at reasonable times. The owner or operator of a construction site with respect to which an NPDES permit has been issued shall provide the Official with the information required in paragraphs 1, 2, 3, and 4 of Section C of this Division prior to the commencement of the work on the construction site. The Official shall inspect the construction site to confirm the implementation and the maintenance of BMP Plans, otherwise, such site shall be inspected when the Official believes, as a result of complaints or monitoring activity, that land-disturbing activities on the site are causing a substantial pollutant loading which threatens the MS4.

(b) Upon the refusal by any property owner to allow the Official to enter, or to continue an inspection on, a site on which land-disturbing activities or construction work is being done, the Official shall terminate the inspection or confine the inspection to areas to which no objection is raised. If an agent of the Official was making, or attempting to make, such inspection, the agent shall promptly report to the Official the refusal and the reasons for the refusal, if the reasons are known by the agent. The Official may seek appropriate legal remedies to enable him to make or complete such Inspection, including seeking appropriate legal remedies from any court having jurisdiction over the matter. If the court grants a remedy to the Official, the property owner must reimburse the City all of the costs and expenses incurred by the City in obtaining such remedy, including court costs and reasonable attorneys' fees.

(c) If the Official has reasonable cause to believe that discharges from the land-disturbing activities to the MS4 may cause an imminent threat to human health or the environment, an inspection of the site may take place at any time and without notice to the owner of the property or a representative on site. The Official shall present proper credentials upon request of the owner or his representative.

(d) At any time during the conduct of an inspection, or at such other times as the Official may request information from an owner or his representative, the owner or representative may identify areas of its business, material or processes which contain a trade secret and an inspection of which might reveal such trade secret. If the Official has no clear and convincing reason to question such assertion of the owner or his representative, the inspection report shall note that trade secret information has been omitted. To the extent practicable, the Official shall protect all information which is designated as a trade secret by the owner or his representative.

SECTION G. ENFORCEMENT AND ABATEMENT.

This Ordinance shall be enforced as provided in Division IV of this Ordinance.

DIVISION II. ILLICIT DISCHARGE.

SECTION A. DEFINITIONS.

For the purposes of this ordinance, the following words and terms shall have the meaning assigned to them in this section.

Authorized enforcement agency. Employees or designees of the director of the municipal agency designated to enforce this ordinance.

Best management practices (BMPS). A schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or Storm water conveyance systems. BMPS also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act. The federal water pollution control act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction activity. Activities subject to NPDES construction permits. Currently, these include construction projects resulting in land disturbance of 1 acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

Hazardous materials. Any material, including any substance, waste, or combination

thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal discharge. Any direct or indirect non-Storm water discharge to the storm drain system, except as exempted in section x of this ordinance.

Illicit connections. An illicit connection is defined as either of the following:

1. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-Storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the City of Trussville or,

2. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the City of Trussville.

Industrial activity. Activities subject to NPDES industrial permits as defined in 40 CFR, section 122.26 (b)(14).

National pollutant discharge elimination system (NPDES) Storm water discharge permit. A permit issued by EPA (or by a state under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-Storm water discharge. Any discharge to the storm drain system that is not composed entirely of stormwater.

Person. Any individual, association, organization, partnership, firm, corporation, or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Storm drainage system. Publicly-owned facilities by which Storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Storm water. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

Storm waterpollution prevention plan. A document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, Storm waterconveyance systems, and/or receiving waters to the maximum extent practicable.

Wastewater. Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

SECTION B. ADMINISTRATION.

The municipal engineer for the City, the municipal official or employee who is a qualified credentialed professional, such other municipal official or municipal employee who passed and obtained certification as a qualified credentialed inspector ("QCI") and enables him or her to enforce the provisions of this ordinance, an individual or agency contracted to provide such service, shall be responsible, on behalf of the City ("Official"), to enforce the provisions of this ordinance (whenever the word "Official" or the phrase "authorized City official" is used in this ordinance, it shall include the authorized agent of the Official).

SECTION C. ILLICIT DISCHARGE PROHIBITIONS.

1) Prohibition of illegal discharges.

No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

2) Illegal discharges exemptions.

(a) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the federal environmental protection agency,

provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(b) The following discharges are exempt from discharge prohibitions established by this ordinance provided that they have been determined not to be a substantial contributor of pollutants by the city or Alabama department of environmental management (ADEM):

i. Water line flushing
ii. Landscape irrigation or lawn watering (not consisting or treated, or untreated wastewater unless otherwise authorized)
iii. Diverted stream flows
iv. Uncontaminated ground water infiltration
v. Uncontaminated pumped groundwater
vi. Discharges from potable water sources
vii. Foundation or footing drains (not including active groundwater dewatering systems)
viii. Air conditioning condensation or drains
ix. Irrigation water (not consisting or treated, or untreated wastewater unless otherwise authorized)
x. Rising groundwater
xi. Springs
xii. Water from crawl space pumps
xiii. Lawn watering runoff
xiv. Individual residential car washing, to include charitable carwashes
xv. Residential street wash water
xvi. Discharges or flows from firefighting activities (including fire hydrant flushing)
xvii. Flows from natural riparian habitat or wetlands
xviii. Dechlorinated swimming pool discharges
xix. Dye testing is an allowable discharge but requires a verbal notification to the City prior to the time of the test.

3) Prohibition of illicit connections.

a) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

c) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the ms4 or allows such a connection to continue.

SECTION D. SUSPENSION OF MS4 ACCESS.

1) Suspension due to illicit discharges in emergency situations.

The City of Trussville may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the ms4 or waters of the united states. If the violator fails to comply with a suspension order issued in an emergency, the City of Trussville may take such steps as deemed necessary to prevent or minimize damage to the ms4 or waters of the united states, or to minimize danger to persons.

2) Suspension due to the detection of illicit discharge.

(a) Any person discharging to the MS4 in violation of this ordinance may have his, her, or the entity's MS4 access terminated if such termination would abate or reduce an illicit discharge. The City of Trussville will notify a violator of the proposed termination of its MS4 access. The violator may petition the City of Trussville for reconsideration and hearing.

(b) A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the City of Trussville.

SECTION E. COMMERCIAL, CONSTRUCTION, OR INDUSTRIAL ACTVIVITY DISCHARGES.

Any person subject to an industrial, commercial or construction activity NPDES Storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City of Trussville prior to the allowing of discharges to the MS4.

SECTION F. MONITORING OF DISCHARGES.

1) Applicability.

This section applies to all facilities that have Storm water discharges associated with industrial, commercial, construction activity, and post-construction BMP operation and maintenance plans.

2) Access to facilities.

a) The City of Trussville shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to

determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the City of Trussville.

b) Facility operators shall allow the City of Trussville ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

c) The City of Trussville shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the City of Trussville to conduct monitoring and/or sampling of the facility's Storm water discharge.

d) The City of Trussville has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm waterflow, and quality shall be calibrated to ensure their accuracy.

e) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the City of Trussville and shall not be replaced. The costs of clearing such access shall be borne by the operator.

f) Unreasonable delays in allowing the City of Trussville access to a permitted facility is a violation of a Storm water discharge permit and of this ordinance. A person who is the operator of a facility with an NPDES permit to discharge Storm water associated with industrial activity commits an offense if the person denies the City of Trussville reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.

g) If the City of Trussville has been refused access to any part of the premises from which Storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City of Trussville may seek issuance of a search warrant from any court of competent jurisdiction.

SECTION G. REQUIREMENT TO CONTROL, PREVENT, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

The City of Trussville will adopt requirements identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. the owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPS. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPS to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of Storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPS shall be part of a storm water pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

SECTION H. WATERCOURSE PROTECTION.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately-owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

SECTION I. NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the City of Trussville in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City of Trussville within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the

actions taken to prevent its recurrence. Such records shall be retained for at least three years.

SECTION J. ENFORCEMENT AND ABATEMENT.

This Ordinance shall be enforced as provided in Division IV of this Ordinance.

SECTION K. APPLICABILITY; MINIMUM STANDARDS.

(1) This Ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless exempted by the City of Trussville.

(2) The standards set forth herein and promulgated pursuant to this Ordinance are minimum standards. Therefore, this Ordinance does not intend nor imply that compliance by any person that no contamination, pollution, nor unauthorized discharge of pollutants will occur.

DIVISION III. POST-CONSTRUCTION STORM-WATER MANAGEMENT.

SECTION A. DEFINITIONS

For the purposes of this ordinance, the following words and terms shall have the meaning assigned to them in this section.

Best Management Practices - (herein abbreviated as "BMP") - activities, prohibitions of practices, maintenance procedures and management practices designed to prevent or reduce the pollution of waters to the MS4. Best Management Practices also include treatment requirements, operating procedures and practices to control facility site runoff, spillage or leaks, sludge or waste disposal or drainage from raw material storage and construction sites.

Green Infrastructure – a strategically planned network of natural and semi-natural areas with other environmental features designed and managed to deliver a wide range of ecosystem services.

Hydrology - Hydrology refers to the physical characteristics of storm water discharge, including the magnitude, duration, frequency, rate of change, and timing of discharge.

Low Impact Development – Low Impact Development (LID) emphasizes conservation and use of on-site natural features to protect water quality. This approach minimizes the project's impervious surface and loss of natural open space and implements engineered, small-scale hydrologic controls aiming to replicate the pre-development hydrologic regime of watersheds through infiltration, filtering, storing, evaporating, and detaining stormwater runoff close to its source.

Non-structural BMPs - Non-structural BMPs may include but not be limited to the following: preservation of open spaces and vegetation, establishment of conservation easements, establishment of buffers along streams and other waters, maintenance of vegetation, BMP inspection and maintenance, planning for future development or redevelopment.

Qualifying Site - Qualifying Site is any new development site or re-development site that results in a total land disturbance of one or more acres and sites that disturb less than one acre but are a part of a larger common development or sale that would disturb one or more acres.

Structural BMPs - Structural BMPs may include, but not be limited to the following: detention/ retention devices, check dams, drainage swales, lined ditches, infiltration basins, porous pavement, outlet protection, velocity dissipation devices, slope protection, constructed wetlands, rain gardens, catch basin inserts, vegetated filter strips, and rain barrels.

SECTION B. ADMINISTRATION

The municipal engineer for the City, the municipal official or employee who is a qualified credentialed professional, such other municipal official or municipal employee who passed and obtained certification as a qualified credentialed inspector ("QCI") and enables him or her to enforce the provisions of this ordinance, an individual or agency contracted to provide such service, shall be responsible, on behalf of the City ("Official"), to enforce the provisions of this ordinance (whenever the word "Official" is used in this ordinance, it shall include the authorized agent of the Official).

SECTION C. POST-CONSTRUCTION BMP DESIGN

1. Design Standards.

(a) The post-construction BMPs for qualifying sites, which may include a combination of structural BMPs and/or non-structural BMPs, must be designed to ensure that the volume and velocity of pre-construction stormwater runoff, to the maximum extent practicable, is not significantly exceeded.

(b) The current City's Post Construction Stormwater Management Technical Memorandum details acceptable design criteria meeting the requirement of the current NPDES Permit No. ALS000015 and shall be the basis for the design and implementation of post- construction BMPs. The City's Post Construction Stormwater Management Technical Memorandum, as it exists presently along with any future changes or updates, is incorporated by reference only.

2. Design References.

By reference in this Section, the City adopts the following as design references to meet the design standards:

a) The latest version of the "Alabama Handbook for Erosion Control, Sedimentation Control and Stormwater Management on Construction Sites and Urban Areas", Volumes 1 and 2.

b) The latest version of the "Low Impact Development Handbook for the State of Alabama".

c) Any storm water design manual approved by the city that meets the design requirement of this ordinance.

SECTION D. APPLICATION REQUIREMENTS

As part of the Land Disturbance Application, all Qualifying Sites shall include the following components:

1. Post-Construction BMP Design Description.

(a) Procedures and strategies of the structural BMPs and/or non-structural BMPs that meet the design standards for Qualifying Sites found in Section C(1) of Division III of this Ordinance will be submitted to the City for review and approval. Submittal to the City of a post-construction plan for approval by the City must be included as an integral part of the site-plan approval process.

(b) Submittal to the City of a certified as-built of the BMPs and a letter of substantial compliance from the design engineer are required within 120 calendar days of construction completion.

2. Post-Construction BMP Inspection Plan Description.

Procedures and strategies that will address inspections of the BMPs to confirm proper function, require corrective actions to poorly functioning or inadequately maintained BMPs, and require record keeping of maintenance activities, inspections, and corrective actions. The City shall perform or require the performance of an inspection by the developer/ owner/ operator at least once per year. Records of these inspections shall be made available to ADEM upon request and copies shall be provided to the City on an annual basis. The minimum documentation requirements for inspections are as follows:

a) Facility type

b) Inspection date

c) Name and signature of qualified inspector

d) Site location

e) Owner information (name, address, phone number, fax, and email)

f) Checklist of BMP's that must be inspected and required condition of BMPs to ensure proper functioning. Description of the existing stormwater BMP condition that may include the quality of: vegetation and soils, inlet and outlet channels and structures, embankments, slopes, and safety benches; permeable paving; spillways, weirs, and other control structures; and sediment and debris accumulation in storage and forebay areas as well as in and around inlet and outlet structures;

g) Photographic documentation of all critical storm water BMP components;

h) Determination of whether the BMP operations and maintenance has adhered to the BMP Operation and Maintenance Plan and any specific maintenance items or violations that need to be corrected by the owner/operator of the storm water control or BMP; and

i) Maintenance agreements for long-term BMP operations and maintenance.

3. Post-Construction BMP Operation and Maintenance Plan Description.

(a) Procedures and strategies that will address adequate long-term operation and maintenance of the BMPs. A BMP Operation and Maintenance Plan shall be a part of the as Built Evaluation and Certification Form submittal and approval process. The plan shall identify the necessary reoccurring maintenance and operational activities and schedule of those activities necessary to ensure that the BMPs continue to meet the original design intent and standards of the ordinance. The Operation and Maintenance Plan shall also designate the party that is responsible and funding mechanism necessary to carry out the Plan.

(b) Upon approval, an executed copy shall be put on file in the Engineering and Inspections Department:

i. The developer's signed statement accepting responsibility for maintenance until the maintenance responsibility is legally transferred to another part.

ii. Written conditions in the sales or lease agreement that require the recipient to assume responsibility for maintenance.

iii. Written conditions in project conditions, covenants, and restrictions for residential properties assigning maintenance responsibilities to a home owner's association or other appropriate group for maintenance of structural and treatment control

management practices.

iv. Any other legally enforceable agreement that assigns permanent responsibility for maintenance.

SECTION E. ENFORCEMENT AND ABATEMENT

This Ordinance shall be enforced as provided in Division IV of this Ordinance.

DIVISION IV. ENFORCEMENT AND ABATEMENT

SECTION A. VIOLATION.

Whenever the authorized City Official finds that a person or entity violated any prohibition or requirement of this Ordinance, the City may elect to enforce this Ordinance in any manner permissible at law.

SECTION B. NOTIFICAITON; ENFORCEMENT REMEDIES.

Whenever the authorized City Official finds that an entity or person has violated a prohibition or failed to meet a requirement of this Ordinance, the City may enforce the Ordinance, at the authorized City official's discretion, with escalating procedures.

1) Notification; enforcement remedies.

a. Warning notice. a warning notice of violation is the lowest level of formal response to a violation. It is a verbal or written response presented to the violator shortly after a violation has been identified and is intended for minor violations that would not cause significant harm to the environment.

b. Notification of violation. whenever the official finds that any person is in violation of any provision of this ordinance, or any order issued hereunder, the official or his agent may serve upon such person written notice of the violation requiring the removal of illicit discharges and immediate cessation improper disposal practices within ten (10) calendar days of the date of such notice. Compliance by written notice of violation to the responsible person may require without limitation:

i. The performance of monitoring, analyses, and reporting;
ii. The abatement or remediation of Storm water pollution or contamination hazards and the restoration of any affected property; and
iii. Payment of a fine to cover administrative and remediation costs; and
iv. The implementation of source control or treatment BMPS.

c. Compliance order. whenever abatement of a violation and/or restoration of the affected property is not possible within ten (10) calendar days, a compliance order may be issued to the violator. The order shall set forth a deadline within which such remediation or restoration must be completed. Said order shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor, and the expense thereof shall be charged to the violator.

d. Cease and Desist Order: When the Official finds any person has violated or continues to violate this Ordinance or any order issued under this Ordinance, the Official may issue an order to such person(s) to cease and desist all such violations immediately, and direct such person in violation of this Ordinance to:

(i) comply with this Ordinance; or
(ii) take such appropriate remedial or preventive action as may be required to address properly a continuing threatened violation of this Ordinance, including halting operations and terminating any unlawful or illicit discharge.

e. Whenever the authorized official finds any work regulated by this Ordinance being performed in a manner contrary to the provisions of this Ordinance; in a dangerous or unsafe manner; or if the BMPs are not properly installed or maintained, the authorized official may issue a stop work order as soon as is practicable and in accordance with the policies of the Department of Engineering and Inspections. Upon issuance of a stop work order, the cited work shall immediately cease. Any stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

(i) Where an emergency exists, the authorized official shall not be required to give a written notice prior to stopping the work. In the event a stop work order is issued because of an emergency, the authorized official shall notify the Mayor that a stop work order has issued and the reason for its issuance.

(ii) Any person who shall continue to perform work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, may be prosecuted of an offense against the City in the \Municipal Court of the City of Trussville.

2) Appeal of violation.

Any person receiving a notice of violation or compliance order may appeal the determination of the Authorized Official to the City Council. The notice of appeal must be received within ten (10) calendar days from the date of the notice of violation/compliance order. Hearing on the appeal before the appropriate authority or his/her designee shall take place within fourteen (14) calendar days from the date of receipt of the notice of appeal. The decision of the City Council shall be final.

3) Enforcement measures after appeal.

(a) If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within thirty (30) calendar days of the decision of the City Council upholding the decision of the City of Trussville, then representatives of the City of Trussville shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property.

(b) It shall be unlawful for any person, owner, agent, or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

4) Cost of abatement of the violation.

(a) Within fifteen (15) calendar days after abatement of the violation, the owner of the property will be notified of the cost of abatement including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within fifteen (15) calendar days. If the amount due is not paid within a timely manner as determined by the decision of the City Council or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

(b) Any person violating any of the provisions of this ordinance shall become liable to the city by reason of such violation. The liability shall be paid in not more than twelve (12) equal payments. Interest at the rate of twelve (12) percent per annum shall be assessed on the balance beginning on the first (1st) day following discovery of the violation.

5) Injunctive relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. If a person has violated or continues to violate the provisions of this ordinance, the City of Trussville may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

6) Compensatory action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this ordinance, the City of Trussville may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, other community items, or any other requirement permitted under law.

7) Violations deemed a public nuisance.

(a) In the event that any violation of the requirements of this Ordinance become a danger to public safety or public health, the City shall notify in writing the responsible party for changes to design, operation, maintenance, and repairs. Upon receipt of that notice, the responsible party shall have fourteen (14) calendar days, or such additional time as the City shall determine to be reasonably necessary to complete the action, to make changes to design, operation, maintenance, and repairs of the measures in an approved manner and to bring the area into compliance with this Ordinance.

(b) In the event that corrective action is not undertaken within that time, the City may take necessary corrective action. The cost of any action by the City under this Section shall be billed to the responsible party. If the responsible party refuses to pay the bill, the City is entitled to bring an action against the responsible party to pay, file a lien against the property, or both. Costs shall include interest, collection fees, and reasonable attorney fees. Any action brought under this paragraph shall be brought in accordance with section six (6) and section (7) of Ordinance 2018-008-ADM except that notice of violation requirement to take corrective action shall be fourteen (14) calendar days as provided herein.

8) Criminal prosecution.

(a) It shall be unlawful for any person to:

(i) violate any provision of this Ordinance;
(ii) violate the provisions of any Permit issued pursuant to this Ordinance.

(b) Upon conviction, such person shall be guilty of a misdemeanor against the City. Each day of such violation, failure, or refusal to comply with this Ordinance shall be deemed a distinct and separate offense to be punished as prescribed in section 1-5 of the Code of Ordinances of the City of Trussville.

(b) The City of Trussville may recover all attorneys' fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

9) Remedies not exclusive.

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City of Trussville to seek cumulative remedies.

SECTION C. Immediate Threats to Public Health or Welfare.

Notwithstanding any other provision in this ordinance to the contrary, in the event of an immediate threat to the public health or welfare, the Official may take all appropriate measures to remove or alleviate such threat.

SECTION D. Enforcement by ADEM

1. NPDES Permits for Storm Water Discharge Associated with Construction Activities.

(a) No enforcement action shall be taken by the City for a violation of the terms of this ordinance if any of the following has occurred:

(b) ADEM has issued a notice of violation with respect to the same alleged violation and is proceeding with an enforcement action with respect to such alleged violation;

(c) ADEM has issued an administrative order with respect to the same alleged violation and is proceeding with an enforcement action with respect to such violation; or

(d) ADEM has commenced, and is proceeding with, an enforcement action, or has completed any other type of administrative or civil action, with respect to such alleged violation.

2. Any determination or resolution made by ADEM with respect to an alleged violation shall be final, and the alleged violation shall not be made the subject of any additional enforcement action by the City; provided, however, that an enforcement action may be pursued by the City for continued or continuing substantial violations, subject to the provisions of this Division and pursuant to the following:

(a) ADEM will provide the Official with access to the ADEM NPDES permits issued with respect to each property within its jurisdiction, including inspections and notification of any enforcement actions taken by ADEM.

(b) The Official will notify ADEM and the permit holder, in writing, when the Official demonstrates that an NPDES permit holder is causing a substantial pollutant loading to the MS4.

(c) The Official may rely on ADEM to regulate, and to take enforcement actions against Permittees until such time as a Permittee is in continuing substantial violation of its NPDES permit and ADEM has failed to respond in a timely manner in accordance with Code of Alabama 1975, § 11-89C-1 et seq. If there is a continuing substantial violation of an ADEM NPDES permit and ADEM fails to respond as stated above, the Permittee shall be subject to this ordinance for that violation.

DIVISION 5. ENACTMENT AND OTHER PROVISIONS

SECTION A. NOTICES.

Whenever the City is required or permitted to:

1. give a notice to any party, such notice must be in writing; or

2. deliver a document to any party; such notice or document may be delivered by personal delivery, certified mail (return receipt requested), registered mail (return receipt requested), or a generally recognized overnight carrier, to the address of such party which is in the records of the City or is otherwise known to the City; or

3. if notice is undeliverable in the above-stated methods, notice shall be served by publication. The notice shall be deemed served when published in a newspaper or other publication of general circulation within the corporate limits of the City.

SECTION B. REFERENCES.

Whenever a Division, Section, or Paragraph is referenced in this Ordinance, unless the context clearly indicates the contrary, such reference shall be to a section of this ordinance.

SECTION C. SEVERABILITY.

The provisions of this Ordinance are severable. If any part of this ordinance is determined by a court of law to be invalid, unenforceable, or unconstitutional, such determination shall not affect any other part of this Ordinance.

SECTION D. CAPTIONS.

The captions of Divisions, Sections, and Paragraphs are for the purpose of reference only. Any such captions shall not affect the meaning of any provision of this ordinance.

SECTION E. MINIMUM STANDARDS.

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards. Therefore, this ordinance does not intend nor imply that compliance by any person will ensure there will be no contamination, pollution, nor unauthorized discharge of pollutants.

SECTION F. CONFLICT.

In the event of any article, section, part, or clause of this Ordinance shall conflict with any federal or state law that is presently enacted or comes to be enacted following the enactment of this Ordinance, the applicable federal or state law provision shall govern.

SECTION G. REPEALER OF ORDINANCES IN CONFLICT.

Any ordinance or provision in the City of Trussville Code of Ordinances in conflict with any of these provisions shall be repealed. This ordinance shall specifically repeal and replace Ordinance 2018-010-E&I.

SECTION H. EFFECTIVE DATE.

BE IT FURTHER ORDAINED, this Ordinance shall be in full force and effect following passage, adoption, and publication as required by law.

ADOPTED this the 14th day of January, 2020.

ZACK STEELE, COUNCIL PRESIDENT

BUDDY CHOAT
MAYOR

ATTEST:

LYNN B. PORTER, CITY CLERK