

AN ORDINANCE TO AMEND MOBILE CITY CODE, CHAPTER 17,  
STORM WATER MANAGEMENT AND FLOOD CONTROL,  
ARTICLE I DIVISION 1. GENERAL,  
REPLACING SECTIONS 17-1 THROUGH 17-16

Sponsored by: Mayor William S. Stimpson

WHEREAS, the City of Mobile by and through its City Council recognizes that its waterways are one of its greatest assets; and,

WHEREAS, the City of Mobile desires to preserve and protect its rivers, streams and tributaries by controlling runoff from land disturbing activities, illicit discharges, and high risk commercial and industrial property uses; and,

WHEREAS, the federal Clean Water Act, the Alabama Water Pollution Control Act and the Alabama Environmental Management Act require the City to follow best management practices to regulate the discharge of non-storm water into the City's municipal separate storm water system ("MS4"); and,

WHEREAS, the City is obligated to prevent the introduction of pollutants into its MS4 to the maximum extent practicable in order to comply with the requirements of its National Pollutant Discharge Elimination System ("NPDES") storm water discharge permit; and,

WHEREAS, this Ordinance is enacted to accomplish these goals;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MOBILE, ALABAMA, THAT THE FOLLOWING ORDINANCE IS ADOPTED TO REPLACE IN ITS ENTIRETY MOBILE CITY CODE, CHAPTER 17, STORM WATER MANAGEMENT AND FLOOD CONTROL, ARTICLE I, DIVISION 1. GENERAL,

SECTIONS 17-1 through 17-16. All other sections of Chapter 17, specifically Article I, Division 2, Article II and Article III, Division 1 and Division 2, remain in effect.

Adopted:

  
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City Clerk

## TABLE OF CONTENTS

	PAGE	
ARTICLE I	STORM WATER MANAGEMENT AND FLOOD CONTROL	1
DIVISION 1	GENERAL	1
SUBPART A	GENERAL PROVISIONS	1
Sec. 17-1	A. Statement of purpose	1
	B. Applicability	2
	C. Storm Water Design Manual	2
	D. Jurisdiction	2
	E. Compliance	2
	F. Abrogation and greater restrictions	2
	G. Interpretation	3
	H. Severability	3
Sec. 17-2	Definitions	3
Sec. 17-3	Designation of administrator	14
Sec. 17-4	Authority of the City Engineer	15
Sec. 17-5	Authority of the Urban Development Department	16
SUBPART B	PERMITS	17
Sec. 17-6	Permits	17
	A. 1. Land Disturbance Permit, Tier 1 and Tier 2	17
	2. Land Disturbance Permit, Tier 1 only	17
	B. Building permit	18
	C. Clearing and grubbing; timber harvesting	18
	D. Development permit	19
	1. Establishment of development permit	19
	2. Application stage	19
	3. Construction stage	19
Sec. 17-7	Plans for commercial, residential and subdivision construction	20
Sec. 17-8	Applications for Tier 1 and Tier 2 Land Disturbance Permits	22
	A. General Rule	22
	B. When a Land Disturbance Permit is Not Required	22
	C. Applications for Land Disturbance Permits	24
	1. Application Submittal	24
	2. Fees	24

	3. Application Procedure	25
	4. Data Required on the Application for a Land Disturbance Permit	25
	D. Compliance with the Requirements of the Land Disturbance Permit	26
	E. Amended Application; Transfer of Land Disturbance Permit	26
	1. Amended Land Disturbance Permit	26
	2. Transferred Land Disturbance Permit	27
	F. Signatory Requirements	27
Sec. 17-9	Best Management Practices – Tier 1 Land Disturbance Permit	28
	A. Design and Performance Standards	28
	B. Notice of Construction Commencement and Construction Inspections for Tier 1 Land Disturbance Permits	33
	1. Notice of Construction Commencement	33
	2. Construction Inspections	33
	3. Final Inspection – Submittal of “As Built” Plans	33
	C. Land Stabilization Requirements for Tier 1 Land Disturbance Permits	33
	D. Waivers of Storm Water Management Requirements	34
Sec. 17-10	Maintenance and Repair of Storm Water Facilities – Post Construction Storm Water Management in New Development And Redevelopment	36
	A. Maintenance Easement – Tier 1 Developments	36
	B. Maintenance Covenants – Tier 1 Developments	37
	C. Records of Installation and Maintenance Activities	37
	D. Failure to Maintain Practices	37
	E. Unauthorized Discharge Prohibited and Declared a Public Nuisance	38
	1. Unauthorized discharges prohibited	38
	2. Exceptions	38
	F. Accidental Discharges	39
	1. Release of hazardous materials	39
	2. Release of non-hazardous materials	39
	G. Immediate Threats to Public Health, Welfare or the Environment	40
Sec. 17-11	Illicit Discharge Detection and Elimination (“IDDE”)	40
	A. Applicability	40
	B. Regulatory Consistency	40
	C. Ultimate Responsibility	40
	D. Prohibitions of Illicit Discharges and Illicit Connections	40
	1. Prohibition of Illicit Discharges	40
	(a) Prohibition	40
	(b) Exceptions	41
	2. Prohibition of Illicit Connections	42
	(a) Prohibition	42

	(b) Past connections prohibited	42
	E. Watercourse Protection	43
Sec. 17-12	Commercial, Industrial and High Risk Facilities	43
	A. BMPs required	43
	B. Protection Against Accidental Discharge	44
	C. Industrial, Construction or Other Activity Discharges-Compliance With NPDES Permits	44
Sec. 17-13	Compliance Monitoring	45
	A. Record Retention	45
	B. Right of Entry; Inspection and Sampling	45
	C. Search Warrants	46
	D. Emergency Discharge	46
Sec. 17-14	Violations, Enforcement and Penalties	47
	A. Violations	47
	B. Enforcement Remedies for Violations	47
	1. Notices, citations	47
	2. Stop-Work Order; Revocation of Land Disturbance Permit	48
	C. Authority of Municipal Court	48
	D. Fines	48
	E. Right to appeal	49
	F. Delivery of Notices	49
	G. Remedies Not Exclusive	49
Sec. 17-15	Reserved	49
Sec. 17-16	Reserved	49
Repealer		50
Effective Date		50

## ARTICLE I. STORM WATER MANAGEMENT AND FLOOD CONTROL

### DIVISION 1 – GENERAL

#### SUBPART A – GENERAL PROVISIONS

##### Sec. 17-1. A. Statement of purpose

It is the purpose of this article to control land disturbance activities and storm water drainage facilities within the corporate limits of the city in order to promote the public health, safety and general welfare, and to comply with the Federal Clean Water Act, the Alabama Water Pollution control Act, as amended, *Alabama Code* (1975), § 22-21-1, *et seq.*, the Alabama Environmental Management Act, as amended, *Alabama Code* (1975), § 22-22A-1, *et seq.*, and rules and regulations adopted thereunder, the national pollution discharge elimination system (NPDES) program to meet its storm water discharge permit requirements, and Federal Emergency Management Agency (FEMA) requirements to reduce flooding through provisions designed to:

1. Protect human life and health;
2. Protect the natural assets and resources of the city;
3. Protect the lands and waters of the city from the effects of soil erosion, sedimentation, and illicit discharges into its municipal separate storm sewer system;
4. Prevent and reduce degradation of streams and lakes from the effects of siltation and illicit discharges;
5. Prevent obstruction of drainage channels, reduce flood damage and prevent damage to the property of adjacent land owners;
6. Enforce the City's storm water management program;
7. Reduce the need for rescue and relief efforts associated with flooding;
8. Provide for the sound use and development of flood prone areas so as to maximize beneficial use without increasing flood hazard potential;
9. Reduce damage to public facilities and utilities such as water and sewer lines, electric, telephone and gas facilities, and streets and bridges located in floodplains;
10. Ensure a functional storm water drainage system that will not result in excessive maintenance costs;

11. Encourage the improvement of existing flooding problems in conjunction with new development that enhances and does not impair the City's storm water drainage system;
12. Encourage the use of natural and aesthetically pleasing design;
13. Reduce the impact on public and private lands caused by the accumulation of mud, dirt, water, debris and construction materials.

*(Ord. No. 65-007-2009. 3-10-09)*

**B. Applicability**

This article shall apply to all areas within the city limits.

**C. Storm Water Design Manual**

The City of Mobile may furnish additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements of this ordinance and may provide such information in the City of Mobile Flood Plain Management Plan, which is available for review and copying at the Office of the City Clerk and on the City of Mobile website, or in the form of a Storm Water Design Manual.

This manual will include a list of acceptable storm water treatment practices, including the specific design criteria and operation and maintenance requirements for each storm water practice. The manual may be updated and expanded from time to time, at the discretion of the City Engineer, based on improvements in engineering, science, monitoring and experience. Storm water treatment practices that are designed and constructed in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards.

**D. Jurisdiction**

The regulations and requirements set forth in this article shall apply to all property within the corporate limits of the city.

**E. Compliance**

No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this article and other applicable regulations.

**F. Abrogation and greater restrictions**

This article is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this article and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

### **G. Interpretation**

In their interpretation and application, the provisions of this article shall constitute minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by city ordinances. Whenever the provisions of this article impose more restrictive standards than are required in or under any other law, regulation, or ordinance, the requirements herein contained shall prevail. Whenever the provisions of any other law, regulation, or ordinance require more restrictive standards than are required herein, the requirements of such law, regulation, or ordinance shall prevail.

### **H. Severability**

If any section, clause, provision or portion of this article is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this article shall not be affected thereby.

*(Ord. No. 65-007-2009, 3-10-09)*

## **Sec. 17-2. Definitions**

Words used in this article shall have their customary meanings as determined by the standard dictionary definition except for the purposes of this chapter, the following specific words and terms used herein shall be interpreted as follows:

**ADEM** means the Alabama Department of Environmental Management or its successor agency.

**Accelerated Erosion** means erosion caused by development activities that exceeds the natural processes by which the surface of the land is worn away by the action of water, wind, or chemical action.

**Adverse impact** means a negative effect to land, water and associated resources resulting from any land disturbing activity. Negative effects include, but are not limited to, increased risk of flooding, degradation of water quality, increased sedimentation, reduced groundwater recharge, harm to aquatic organisms, wildlife or other resources and/or threatened public health.

**Applicant** means a property owner or agent of a property owner who has filed an application for a storm water management or other permit required by Chapter 17.

**Approved drainage system** means a system that was approved for construction and permitted by the City; provided, however, the term does not include storm water piping within the city's right-of-way.

**As-built plans** or **record documents** means a set of engineering site drawings that delineate a specific permitted storm water management facility or system as actually constructed.

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

**Best Management Practices (BMPs)** means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention, educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly into storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control facility site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage and construction sites, or such other practices approved by EPA, see National Menu of Best Management Practices.

**Building** means any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

**Building permit** means an official document or certificate issued by the City Urban Development Department that authorizes performance of a specific activity relating to constructing, reconstructing, enlarging, extending, or structurally altering any building or structure, including interior alterations.

**Certificate of Occupancy** means an official document, issued by the City Urban Development Department, that certifies completion of a permitted structure in accordance with the provisions of established codes and other laws.

**Channel** means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

**City** means the City of Mobile, Alabama.

**City Council** means the city council of the City of Mobile, Alabama.

**City Engineer** means the director of storm water and floodplain management, and City Engineering, or his designee

**Clean Water Act** means the federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and any subsequent amendments thereto.

**Clearing** means those operations where trees and vegetation are removed (cut) and stumps left in place, but not including grading or any other activity that would alter the existing elevation contours of the cleared property.

**Construction Best Management Practice Plan ("CBMP plan")** means a set of drawings and/or other documents submitted by a person as a prerequisite to obtaining a Land Disturbance Permit, which contains all of the information and specifications pertaining to BMP.

**Consultant** means a licensed or registered professional who provides technical services.

**Contractor** means a person or his designee who is responsible for construction activities.

**Dedication** means the deliberate appropriation of property by its owner for general public use.

**Detention** means the temporary storage of storm runoff in a storm water management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

**Detention Facility** means a detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

**Developer** means a person who undertakes land disturbance activities or undertakes other development.

**Development** means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations and storage of equipment or materials.

**Diameter at breast height (DBH)** means the measurement of the width of the trunk of the tree at four and one-half (4½) feet above the existing grade. For multitrunk trees the DBH shall be the sum of the diameter of the trunks.

**Director of Urban Development** means the director of the city department responsible for administration of building, zoning, subdivision regulations, forestry and other land use codes of the city or his/her designee.

**Drainage area** means that area contributing runoff to a single point.

**Dwelling, one-family** means a non-commercial, individual and separately built structure designed and constructed exclusively for use by one (1) family for residential purposes.

**Easement** means an interest in land granted by the owner or his predecessor for a specific limited use, purpose or purposes, (which is described in the conveyance of the land affected by such easement), but not conveying title to real property.

**Engineer** means a person licensed under Alabama Code, Section 34-11-1 et seq. (1975), as amended.

**EPA** means the United States Environmental Protection Agency.

**Erosion** means the wearing away of land surface by the action of wind, water, gravity, ice, or any combination of those forces.

**Erosion and sediment control** means the control of solid material, both mineral and organic, during a land disturbing activity to prevent its transport out of the disturbed area by means of air, water, ice, gravity or mechanical means (see *best management practices*, "BMPs").

**Fee in Lieu** means a payment of money in place of meeting all or part of the storm water performance standards required by this ordinance.

**FEMA** means the Federal Emergency Management Agency, or its successor agency.

**Floodway (regulatory floodway)** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

**Floodplain** means a special flood hazard area.

**Grading** means excavating, filling (including hydraulic fill) or stockpiling of earth material, (or any combination thereof), including the land in its excavated or filled condition.

**Grubbing** means the effective removal of understory vegetation such as, but not limited to, palmetto from the site and/or the removal of stumps and roots from a cleared parcel of land.

**Hazardous Materials** means 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.

**Heritage live oak tree** means a live oak tree which is at least twenty-four (24) inches DBH.

**High Risk Facility** means municipal landfills; other treatment, storage or disposal facilities for municipal waste; hazardous waste treatment, storage, disposal and recover facilities; facilities subject to Emergency Planning and Community Right-to-know Act (EPCRA), Title III, Section 313, and any other industrial or commercial facility that the City Engineer determines may make or has made a substantial pollutant contribution to the MS4. The City Engineer shall publish a list of high risk facilities on the City's web site, the City Flood Plain Management Plan, and such other publications as appropriate.

**Heritage tree** means any of the following list of trees which is at least twelve (12) inches DBH: oak (excluding water oak and scrub oak), hickory, sycamore, yellow poplar, sweet gum, magnolia, cypress and new trees required by section 64-4.E. or section 64-4.H.4.f. of chapter 64, Mobile City Code.

**Historic structure** means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the National Register.
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary to qualify as a registered historic district.
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - a. By an approved state program as determined by the Secretary of the Interior, or
  - b. Directly by the Secretary of the Interior in states without approved programs.

**Illicit Connections** means an illicit connection is defined as either of the following:

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 an authorized enforcement agency; or,

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 an authorized enforcement agency.

***Illicit or illegal discharge*** means any discharge to a municipal separate storm sewer that is not composed entirely of storm water except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from fire fighting activities.

***Impervious Cover*** means those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc).

***Industrial Storm Water Permit*** means an National Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial storm water discharges or specifies on-site pollution control strategies.

***Infiltration*** means the passage or movement of water through the soil profile.

***Infiltration Facility*** means any structure or device designed to infiltrate retained water to the subsurface. These facilities may be above grade or below grade.

***Jurisdictional Wetland*** means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

***Land Disturbance Permit, Tier 1***, means an official document issued by the Urban Development Department which authorizes a land disturbing activity on a qualified construction site.

***Land Disturbance Permit, Tier 2***, means an official document issued by the Urban Development Department which authorizes a land disturbing activity site of less than one acre, under Subpart B of this Chapter.

**Land Disturbance Permit application** means a set of drawings, documents and supporting calculations containing the information and specifications required by the city submitted as a prerequisite to obtaining a Tier 1 or Tier 2 Land Disturbance Permit to undertake a land disturbing activity.

**Land disturbing activity** means any activity upon or use of land involving a change in the natural vegetative cover or topography including but not limited to clearing, grading, grubbing, excavation, and filling, or other construction activities that may cause erosion or contribute to sedimentation or alteration of the quality and quantity of storm water runoff.

**Maintenance Agreement** means a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.

**MS4** means the city municipal separate storm sewer system.

**Municipal Offense Ticket** means a summons charging a violation of this article that directs anyone in violation to pay a set fine or to appear in municipal court to answer the charge or charges of violation.

**Municipal separate storm sewer system** shall have the same meaning as defined in the city's national pollutant discharge elimination system permit.

**NPDES** means the national pollutant discharge elimination system of the Federal Clean Water Act.

**NPDES permit** means the permit issued to the city by the Alabama Department of Environmental Management authorizing all existing or new storm water point source discharges to waters of the State of Alabama from those portions of the MS4 owned or operated by the City.

**National Pollutant Discharge Elimination System** means a permit program authorized by the Federal Water Pollution Control Act (Clean Water Act) to authorize point source discharges into waters of the State of Alabama and administered in the State by the Alabama Department of Environmental Management (ADEM).

**Non-erodible** means a material, e.g., natural rock, riprap, concrete, plastic, etc., that will not experience noticeable surface wear due to natural forces of wind, water, ice, gravity or a combination of those forces.

**Non-point source pollution** means any source of water pollution that is not the "point source" pollution as defined in section 502(14) of the Clean Water Act, and often includes materials contained in storm water runoff from ill-defined, diffuse sources.

**Non-Storm Water Discharge** means any discharge to the storm drain system that is not composed entirely of storm water.

**Offset Fee** means a monetary compensation paid to a local government for failure to meet pollutant load reduction targets.

**Off-Site Facility** means a storm water management measure located outside the subject property boundary described in the permit application for land development activity.

**On-Site Facility** means a storm water management measure located within the subject property boundary described in the permit application for land development activity.

**One hundred-year frequency storm** means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in one hundred (100) years, or, that has a one (1) percent chance of being equaled or exceeded in any given year.

**Overbank storage** means the capacity of floodplain lands to receive, slow and retain above normal rainfall waters from an overloaded river, creek, stream or ditch.

**Overstory** means the top portion or canopy of trees above a cluster of smaller trees.

**Owner** means the legal or beneficial owner of land, including those holding the right to purchase or lease the land.

**Permittee** means a person to whom a building permit, Land Disturbance Permit or other type permit has been issued and who is obligated to comply with the terms and conditions of the permit.

**Person** means any individual, firm, partnership, corporation, company, LLC, association, trust or any other group or combination of individuals operating as a unit and including any trustee, receiver, assignee or other similar representative thereof.

**Point Source** means 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 leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

**Pollutant** means 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, and accumulations thereof, 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.

**Post-development** means the conditions which exist following completion of a land disturbing activity in terms of topography, vegetation, land use, construction, and the rate, volume, velocity, quality or direction of storm water runoff.

**Pre-development** means the conditions which exist prior to the initiation of a land disturbing activity in terms of topography, vegetation, land use, construction, and the rate, volume, velocity, quality or direction of storm water runoff.

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

**Qualified Construction Site** means any construction activity that results in a total land disturbance of one or more acres and activities that disturb less than one acre but are part of a larger common plan of development or sale that would disturb one or more acres. Qualifying construction sites do not include land disturbance conducted by entities under the jurisdiction and supervision of the Alabama Public Service Commission.

**Qualified Credentialed Inspector (QCI).** An operator, operator employee, or operator designated qualified person who has successfully completed initial training and annual refresher Qualified Credentialed Inspection Program (QCIP) training, and holds a valid certification from an ADEM approved cooperating training entity.

**Qualified Credentialed Professional.** A certified professional in erosion and sediment control (CPESC) as determined by the Soil and Water Consideration Society (SWCS) or the International Erosion Control Association (IECA). Other registered or certified professionals; such as registered professional engineer, registered 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 City 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 grading permit. A professional engineer (PE) registered in the state must certify the design and construction of structural practices such as spill prevention control and counter measures (SPCC) plan containment structures, dam construction, etc.

**Recharge** means the replenishment of underground water reserves.

**Redevelopment** means a land disturbance activity that in some way changes or alters the current development or use of the land and may or may not alter the current runoff characteristics.

**Retention structure** means a permanent enclosure, lake, pond or other system with the primary purpose of permanently storing a given volume of storm water runoff, and which may temporarily detain an additional volume of storm water runoff for release at a controlled rate.

**Sediment** means solid particulate matter, both mineral and organic, that has been or is being transported by water, wind, ice, gravity, or mechanical means from its site of origin.

**Special flood hazard area** means those areas identified by the Federal Emergency Management Agency (FEMA) in its flood insurance study (FIS) dated March 17, 2010, with accompanying maps and other supporting data, and any revision thereto. Areas of special flood hazard may also include those areas known to have flooded historically or defined through standard engineering analysis by governmental agencies or private parties but not yet incorporated in a flood insurance study.

**Stabilization** means the installation of structural measures or soil cover to reduce soil erosion by storm water runoff, wind, ice, gravity, or mechanical means.

**State** means State of Alabama.

**Stop Work Order** means a directive issued by the City to any person who owns or possesses the land or who is performing or may be responsible for a land disturbing activity to cease and desist all or any portion of the activity.

**Storm drainage facility** means any sewer, ditch, creek, river, lake, swale, watercourse or any other natural or manmade facility through which storm water or storm runoff may regularly or intermittently pass in a concentrated fashion.

**Storm water detention** means storm water runoff collected, temporarily stored and released at a rate less than the inflow rate.

**Storm water management** means, for:

- (1) Quantitative control, a system of vegetative or structural measures, or both, that controls the increases in volume and rate of storm water runoff caused by manmade changes to the land, and
- (2) Qualitative control, a system of vegetative, structural or other measures that reduces or eliminates pollutants that might otherwise be carried by storm water runoff.

**Storm Water Pollution Prevention Plan** means 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 water Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

**Storm Water Retrofit** means a storm water management practice designed for an existing development site that previously had either no storm water management practice in place or a practice inadequate to meet the storm water management requirements of the site.

**Storm water runoff** means the direct response of a watershed to precipitation and includes the surface and subsurface runoff that enters a ditch, stream, storm sewer or other concentrated flow during and following the precipitation.

**Storm Water Treatment Practices (STPs)** means measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to storm water runoff and water bodies.

**Subdivision** means the division of a lot, tract or parcel of land into two (2) or more lots, plats, sites or other divisions of land for the purpose, whether immediate or future, of sale or of building development. This definition includes a resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territories subdivided.

**Ten-year frequency storm** means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in ten (10) years. It may also be expressed as a probability of a ten (10) percent chance of being equaled or exceeded in any given year.

**Twenty-five-year frequency storm** means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in twenty-five (25) years. It also may be expressed as a probability of a four (4) percent chance of being equaled or exceeded in any given year.

**Two-year frequency storm** means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in two (2) years, or that has a fifty (50) percent chance of being equaled or exceeded in any given year.

**Understory** means the trees which grow beneath the overstory to include dogwood, crepe myrtles, Bradford pears, red buds and others approved by the Urban Forester.

**Unsuitable material** means trash, debris, car bodies, asphalt or other refuse.

**Variance** means a modification of minimum storm water management requirements in specific cases where such modification will not be contrary to the public interest and where, owing to exceptional circumstances, literal enforcement of the provisions of this article will result in unnecessary hardship.

**Wastewater** means any water or other liquid, other than uncontaminated storm water, discharged from a facility.

**Water Quality Volume (WQ<sub>v</sub>)** means the storage needed to capture and treat 90% of the average annual storm water runoff volume. Numerically (WQ<sub>v</sub>) will vary as a function of long term rainfall statistical data.

**Watercourse** means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

**Waters of the State** shall have the same meaning set out in 40 C.F.R. Section 122.2.

**Water quality** means those characteristics of storm water runoff that relate to the physical, chemical, biological, or radiological integrity of water.

**Water quantity** means the volume and velocity characteristics of storm water runoff from a land disturbing activity to downstream areas.

**Watershed** means the drainage area contributing storm water runoff to a single point.

**Zoning Ordinance** shall mean the zoning ordinance of the City.

*(Ord. No. 65-007-2009, 3-10-09)*

### **Sec. 17-3. Designation of administrator**

The City Engineer is hereby appointed to administer and implement the provisions of this article in coordination with the Urban Development Department who will administer and enforce any portion of this article as it applies to building permitting and land use.

*(Ord. No. 65-007-2009, 3-10-09)*

#### **Sec. 17-4. Authority of the City Engineer**

1. The City Engineer may furnish additional policy, criteria and information for proper implementation of this Ordinance through the City of Mobile Flood Plain Management Plan (copy available on City of Mobile website) or a Storm Water Design Manual, see Section 17-1-C., which may be amended from time to time as needed.
2. The City Engineer may waive the requirements of this Ordinance under Section 17-9-D., herein, but any such waivers shall not be construed as relieving the party responsible for the identified activity from making on-site drainage improvements required under this Article for storm water management.
3. The City Engineer is authorized to administer this article, including, but not limited to the following:
  - (a) Review proposed developments to assure that all necessary permits have been received from governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. Require that copies of such permits be provided and maintained on file, provided, however, that the responsibility for acquiring all permits remains with the owner/developer.
  - (b) When base flood elevation data or floodway data have not been provided in accordance with section 17-22, the City Engineer shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of sections 17-25 through 17-29.
  - (c) Notify adjacent communities and the State Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA), and the Alabama Emergency Management Agency (AEMA).
  - (d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA and ADEM to ensure accuracy of community flood maps through the letter of map revision process. Assure flood carrying capacity of any altered or relocated watercourse is maintained.

- (e) Where interpretation is needed as to the exact location of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual filed conditions) the City Engineer shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this division.
- (f) Where interpretation is needed as to the exact requirements of flood proofing, the City Engineer shall make the necessary interpretation. Any person contesting the interpretation shall be given reasonable opportunity to appeal the interpretation as provided in this division.

*(Ord. No. 65-007-2009, 3-10-09)*

### **Sec. 17-5. Authority of the Urban Development Department**

The Urban Development Department is authorized to administer this article, including but not limited to the following:

1. Verify and record the actual elevation in relation to mean sea level or highest adjacent grade of the regulatory floor level, including basement, of all new construction or substantially improved structures in accordance with section 17-6(4).
2. Verify and record the actual elevation in relation to mean sea level to which any new or substantially improved structures have been flood proofed, in accordance with section 17-26 and 17-28.
3. Review all Development Permits issued under 17-6(4) to assure that the permit requirements of this article have been satisfied.
4. When flood-proofing is utilized for a structure, the Urban Development Department shall obtain certification of design criteria from a professional engineer licensed by the State of Alabama, in accordance with Division 2, Floodplain Regulations, of this Ordinance, or from either a professional engineer or architect licensed by the State of Alabama.
5. Obtain design certification from a licensed professional engineer or registered architect that any new construction or substantial improvement placed in a coastal high hazard area will meet the criteria in Division 2, Flood Plain Regulations of this Ordinance.
6. All records pertaining to the provisions this article shall be maintained in the office of the Urban Development Department and shall be open for public inspection.
7. The Owner/Developer is responsible for acquiring all permits.

(Ord. No. 65-007-2009, 3-10-09)

## **SUBPART B – PERMITS**

### **Sec. 17-6. Permits**

- A. 1. Land Disturbance Permit, Tier 1 and Tier 2. A permit from the Urban Development Department is required for any land disturbing activity within the city unless exempted under Section 17-8.B. herein. Land Disturbance Permits expire upon completion of the permitted work, or if the work is not started, not later than one (1) year from the date the permit is approved or issued. A permittee may be granted an extension, at no additional cost, by contacting the Urban Development Department in writing prior to the expiration date of the permit. Disturbed property may not remain denuded longer than ten (10) days without establishing vegetation or the application of suitable ground cover for the control of erosion and sedimentation, see Landscaping and Stabilization Requirements herein, Section 17-9.C. Specific requirements for obtaining a Land Disturbance Permit include:
- (i) Approval of a full set of construction plans, including site, grading, and drainage plans by the City Engineer;
  - (ii) Compliance with all regulations (including federal and state) and approval from the City Urban Development and Traffic Engineering Departments;
  - (iii) Documentation that all necessary permits have been received from governmental agencies from which approval is required by law, provided, however, that the responsibility for acquiring all permits remains with the owner/developer;
  - (iv) Compliance with the City's Floodplain Regulations set out in Division 2 of this Article; and
  - (v) A non-refundable permit review fee, established in accordance with Section 17-8.C.1.
2. Land Disturbance Permit, Tier 1 only:
- (i) A storm water management plan meeting the requirements of section 17-9;
  - (ii) A maintenance easement and covenant, as appropriate, meeting the requirements of section 17-10A. and B.;

- B. Building permit. A permit from the Urban Development Department is required to erect, construct, reconstruct, enlarge, extend or structurally alter any building or structure, including interior alterations, within the City. Specific requirements for obtaining a building permit include:
- (a) An approved Land Disturbance Permit authorized by the City's Engineering Department and Urban Development Department and approval of the City's Traffic Engineering Department unless exempt under 17-8.B.;
  - (b) A permit application in compliance with all flood plain requirements as set forth in this section and Division 2 of this article;
  - (c) Satisfactory evidence that permits have been received from those governmental agencies from which approval is required by federal or state law, provided, however, that the responsibility for acquiring all permits remains with the owner/developer; and
  - (d) Plans for building structures in compliance with all applicable building codes, policies and regulations of the Urban Development Department.
- C. Clearing and grubbing; timber harvesting.
- (a) A Land Disturbance Permit from the Urban Development Department is required for timber harvesting operations that involve construction of access roads, stump/root removal, earthwork or cutting undergrowth.
  - (b) A timber harvesting permit from the Urban Forester is required for harvesting operations that involve cutting or harvesting trees without constructing access roads, stump/root removal, earthwork or cutting undergrowth, but a Tier 1 Land Disturbance Permit will not be required if the area disturbed is less than one acre. A Tier 2 Land Disturbance Permit will be required .
  - (c) A Land Disturbance Permit from the Urban Development Department is required, without exemption or exception, for clearing and/or grubbing operations in special flood hazard areas.
  - (d) A Land Disturbance Permit, Tier 2, from the Urban Development Department is required for clearing and/or grubbing 4,000 square feet or more within city limits.
  - (e) No Land Disturbance Permit, either Tier 1 or Tier 2, is required for clearing and/or grubbing private residential property associated with construction of a residential structure that disturbs less than 4,000 square feet, if outside a special flood hazard area.
  - (f) Other obligations. All clearing and/or grubbing activities, whether required to obtain a Land Disturbance Permit or not, shall:

- (i) Observe erosion and sedimentation control requirements found in this article; or
- (ii) Obtain all other necessary permits, licenses and authority and to pay all fees required by any other city, county, state, or federal rules, laws or regulation, provided, however, that the responsibility for acquiring all permits remains with the owner/developer.
- (iii) Comply with all requirements to preserve and protect trees.

*(Ord. No. 65-007-2009, 3-10-09)*

D. Development permit.

1. Establishment of development permit. Application for a development permit shall be made to the Urban Development Department as required by the provisions of this article prior to the commencement of any development in the City limits.
2. Application stage. The applicant must provide the following:
  - (i) Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all buildings;
  - (ii) Elevation in relation to mean sea level to which any nonresidential building will be flood-proofed;
  - (iii) Certificate from an Alabama licensed professional engineer for certificates required by 17-27(d)(1) or by either a registered architect or licensed professional engineer that the non-residential flood-proofed criteria in section 17-27(d)(2) has been met;
  - (iv) Description of the extent to which any watercourse will be altered or relocated as result of proposed development; and
3. Construction stage. The applicant must provide a floor elevation or flood-proofing certification after the lowest floor is completed, or in instances where the building is subject to the regulations applicable to coastal high hazard areas, after placement of the horizontal structural members of the lowest floor. Upon placement of the lowest floor, or flood-proofing by whatever construction means, or upon placement of the horizontal structural members of the lowest floor, whichever is applicable, it shall be the duty of the permit holder to submit to the Urban Development Department, a certification of the elevation of the lowest floor, flood-proofed elevation, or the elevation of the lowest portion of the horizontal structural members of the lowest floor, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a

registered land surveyor or professional engineer licensed by the State of Alabama, certified by same, and recorded in the land records of the Judge of Probate, Mobile County. When flood-proofing is utilized for a particular building, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

*(Ord. No. 65-007-2009, 3-10-09)*

### **Sec. 17-7. Plans for commercial, residential and subdivision construction**

1. A full set of construction plans, standards, design criteria and other specifications for commercial, residential and subdivision construction, including site grading and drainage plans, hereinafter in this Section sometimes referred to as "the plan" or "plans" must be submitted to the City by all applicants for Land Disturbance and Development Permits.
2. Plans shall be accompanied by sufficient engineering calculations for verification of discharge of storm water runoff and location and methods for erosion and sedimentation control.
3. Plans and supporting documentation shall be certified by a registered professional engineer licensed by the State of Alabama that;
  - (a) The plans provide for proper drainage of the project according to sound engineering principles; and
  - (b) The post-development runoff rate does not exceed the pre-development runoff rate as established by the City Engineer.
4. All data, engineering computations and plans submitted to the city shall be signed and sealed by a professional engineer licensed by the State of Alabama.
5. No construction, whether by private or public action, shall be performed in such a manner as to increase the degree or potential for flooding in its vicinity or in other areas whether by increasing runoff volume or velocity or by diminishing channel or overbank storage capacity.
6. The plan shall include provisions for a design that will not cause the pre-development peak runoff rate from a ten-year storm to increase.

7. The plan shall provide storm water detention/retention storage and/or channel improvement and/or other adequate measures as required by applicable design criteria adopted by the City and other specifications for the preparation of site grading and drainage plans.
8. For Tier 1 land disturbance, a Construction Best Management Plan meeting the requirements of Section 17-9 of this ordinance will be required. For Tier 2 land disturbance, an erosion control plan will be required. CBMPs shall be followed for all projects.
9. Plans for development sites of four thousand (4,000) square feet or more shall not allow storm water which has been diverted from its predevelopment natural flow to cross adjoining property lines unless;
  - (a)
    - (i) Storm waters drain into the city drainage system or a natural stream; and
    - (ii) Storm waters do not cause the pre-development peak runoff rate to increase; and
    - (iii) The plan limits discharge to the pre-development flow from a ten-year frequency storm; or
  - (b)
    - (i) A release is obtained from the owner of the adjoining property that releases the city from any claims arising from upstream development, runs with the land, and is recorded in the records of the probate court of the county; and
    - (ii) Storm waters do not cause the pre-development peak runoff rate to increase; and
    - (iii) The plan limits discharge to the pre-development flow from a ten-year frequency storm; or
  - (c)
    - (i) The plan design provides for retention for a one hundred-year frequency storm; and
    - (ii) The plan limits discharge to the pre-development flow from a two-year frequency storm; and
    - (iii) The engineer of record quantifies the pre-development velocity (feet/second) for a two-year frequency storm and certifies that the post-development velocity of storm water released onto the adjacent property is equal to or less than the predevelopment velocity.
10. For Tier 1 and applicable Tier 2 land disturbance projects, the operation and maintenance of the storm water detention/retention facility shall be the responsibility of the owner/developer, its successors and assignees. The engineer of record shall be responsible for instructing the owner/developer, successors and assignees, in the

proper operation and maintenance of the facility, see section 17-10 on Maintenance and Repair of Storm Water Facilities.

11. The city assumes no liability for the design, performance and operation of any storm water detention/retention facilities, but, instead, in its review of plans relies on the professional judgment of the engineer or other licensed professional of record.
12. Development sites that are less than four thousand (4,000) square feet are exempt from the requirements of subsection (9) above; provided, however, that a development site may not be divided into parts of less than four thousand (4,000) square feet for the purpose of avoiding the requirements of subsection (9).
13. No plan shall contain a design that allows storm water to flow across public rights-of-way unless authorized by the City Engineer.
14. All construction plans will be required to comply with FEMA floodplain regulations as specified in Division 2 of this article.
15. As-built certification. A State of Alabama licensed professional engineer must certify to the City Engineer that all site construction, street construction, drainage facilities, erosion and sedimentation control measures, and their improvements are complete and functioning as required by the appropriate regulations and approved permits and plans.

*(Ord. No. 65-007-2009, 3-10-09)*

## **Sec. 17-8. Applications for Tier 1 and Tier 2 Land Disturbance Permits**

### **A. General Rule**

A Land Disturbance Permit is required for all land-disturbing activities, including any land change which may result in soil erosion from water or wind and the movement of sediment to the Municipal Separate Storm Sewer System ("MS4"), including, but not limited to, the clearing, dredging, excavating, transporting and filling of land, except that

### **B. When a Land Disturbance Permit is Not Required**

A Land Disturbance Permit shall not be required for the following, provided however, that a right of way and other permits may be required:

1. Agriculture.
2. Silviculture, except to the extent that a timber harvesting permit is required.
3. 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 greater than 4,000 square feet), 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. Minor land-disturbing activities include only excavations of less than four thousand (4,000) square feet which are less than two (2) feet in depth, or which does not create a cut slope greater than five (5) feet in height nor steeper than two (2) horizontal to one (1) vertical. Cumulative impervious surfaces greater than 4,000 square feet (considering development and improvements completed after 1984) require a Land Disturbance Permit, even if the current disturbances is less than 4,000 square feet. Notwithstanding the foregoing, if warranted by the circumstances, the City Engineer may in his sole discretion impose a CBMP plan and require a Land Disturbance Permit even though an excavation is less than four thousand (4,000) square feet.

4. 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. However, right of way and other permits may be required.
5. The construction, repair or rebuilding of railroad tracks, excluding privately owned rail spurs.
6. Minor subsurface exploratory excavations under the direction of engineers or geologists licensed in the State of Alabama.
7. The opening of individual burial sites in property which has been approved for such use by all necessary governmental authorities.
8. Installation of water supply wells or environmental ground water monitoring wells.
9. A fill which is less than one (1) foot in depth and placed on a natural ground surface with a slope flatter than five (5) horizontal to one (1) vertical; or does not exceed fifty (50) cubic yards on any one (1) lot; and is less than three (3) feet in depth; is not intended to support structures; and does not obstruct a drainage course. This exemption does not apply in special flood hazard areas, which require a Tier 2 permit.
10. Emergency utility repairs.

11. Single family residences separately built where the residence, including driveways and all impervious surface constructed post 1984 on-site, does not increase the impervious surface area more than four thousand (4,000) square feet of land surface area. However, the builder will be required to install silt barriers and use best management practices as necessary to prevent erosion of dirt, rock debris, and building materials onto public or private property and into the City's MS4 and comply with all City ordinances.

The activities referred to in items (1) through (11) above may be undertaken without a Land Disturbance Permit; however, the persons conducting such activities must do so 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 any 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.

### **C. Applications for Land Disturbance Permits**

#### **1. Application Submittal**

Before the commencement of any land disturbing activity that is not exempted under Section 17-8.B. from obtaining a Land Disturbance Permit, the land owner, operator or agent thereof shall submit to the City of Mobile a permit application on a form provided for that purpose, accompanied by the plan review fee as set out in paragraph 2 below. A permit application must be accompanied by the following: for Tier 1 projects, a construction best management practices plan and acceptable security plan, see Section 17-9; for Tier 1 and Tier 2 projects, a permit application must include the items listed in 17-6(a) and 17-7. The applicant must submit the number of sets of plans required by the Urban Development Department, and a copy in PDF format.

#### **2. Fees**

Applications for Land Disturbance Permits shall be accompanied by a plan review fee as follows:

##### Plan Review Fee:

First	\$100
Second	\$200
Third	\$500
Fourth	\$1,000
Fifth +	\$2,000 each

After the application is reviewed and approved, a permit fee is due. The amount of the fee depends on the size of the area to be disturbed at the site. The maximum permit fee is \$300.

### **3. Application Procedure**

- (a) Following its receipt of an application for a Land Disturbance Permit, the City will use its best efforts to either approve or disapprove the permit within thirty (30) days of the day a complete application and permit application is filed with the City. If the application is disapproved, the City will inform the applicant, in writing, which writing may be communicated electronically through comments and annotations on the application, of the reasons for its disapproval. If the applicant, on one or more occasions, revises the application or submits to the City additional documents or information in connection with the application, the City will make a written response which may be communicated electronically through comments and annotations on the revised or additional application, to the applicant to inform the applicant whether such revised application and/or additional documents and information have been approved or disapproved by the City. The City will use its best efforts to provide its response to revised applications or additional information within fourteen (14) days of the day such revised application or additional documents or information is submitted to the City. The land-disturbing activity may not be commenced prior to the issuance of the Land Disturbance Permit by the City. The issuance of the Land Disturbance Permit shall not excuse the owner from the need to obtain other required federal, state and local permits or licenses.
- (b) The minimum standards for the issuance of a Land Disturbance Permit must meet the requirements of this ordinance.

### **4. Data Required on the Application for a Land Disturbance Permit**

All applications for a Land Disturbance Permit must include the following information:

- (a) Name of applicant;
- (b) Telephone number of applicant, telecopier number, if any, of applicant, and e-mail address, if any, of applicant;
- (c) Address where applicant, or other person who can furnish information about the land-disturbing activity, ("contact person") can be reached;

- (d) Name, address, telephone number, telecopier number, if any, and e-mail address, if any, of the owner or 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;
- (e) Legal description and address, if any, of the property upon which the land-disturbing activity is to be conducted;
- (f) Names, addresses, telephone numbers, telecopier numbers, if any, and e-mail addresses, if any, of all contractors and subcontractors who shall perform the permitted work; provided, however, that if the contractor and the subcontractors have not been selected when the application for a Land Disturbance Permit is filed, the applicant shall furnish such information to the City within five (5) days of the day or days on which the contractor and/or subcontractors are selected;
- (g) Name, address, telephone number, telecopier number, if any, and e-mail address, if any, of the qualified credentialed professional who has approved the site plans and, if any Tier 1 development, a CBMP plan application; and
- (h) Each application for Land Disturbance Permit must be accompanied by a map or a plan of the land on which the land-disturbing activity will be conducted and any other information that is required under this Ordinance.

The detail of the CBMP plan must be commensurate with the size of the project, severity of the site condition and potential for offsite damage, as provided in this ordinance.

#### **D. Compliance with the Requirements of the Land Disturbance Permit**

Records of compliance with the provisions of the Land Disturbance Permit shall be submitted to the City for review; provided, that if such records are not maintained within the State and, because of their size, cannot be transmitted to the City, such records must be delivered to the City (at no expense to the City) within fifteen (15) days of the receipt by the owner, applicant or contact person of a request by the City Engineer for such records.

#### **E. Amended Application; Transfer of Land Disturbance Permit**

1. Amended Land Disturbance Permit. A Land Disturbance Permit may be amended, upon the payment of an additional fee, as follows:

First Amendment	\$100
Second Amendment	\$200
Third Amendment	\$500
Fourth Amendment	\$1,000
Fifth and each additional Amendment	\$2,000 each

The amended Land Disturbance Permit application shall contain all changes from the original application, and must, at a minimum, show to the reasonable satisfaction of the City that the proposed changes will not affect the quantity and/or quality of storm water runoff. If an amended or restated application is filed with the City with respect to land-disturbing activities for which a Land Disturbance Permit has been issued, such existing Land Disturbance Permit shall continue in effect, and the holder of the Land Disturbance Permit may continue to operate under the original permit unless and until an amended Land Disturbance Permit is issued in response to the amended or restated application ("amended Land Disturbance Permit") at which time the original Land Disturbance Permit shall expire and all land-disturbing activities must be conducted in accordance with the amended Land Disturbance Permit.

2. Transferred Land Disturbance Permit. A Land Disturbance Permit may be transferred, upon the payment of an additional fee in the amount of \$101, equal to the fee under the Building Code for change of contractor, upon the filing with the City of an application for transfer, provided, that the holder and proposed transferee of the Land Disturbance Permit show to the reasonable satisfaction of the City that, upon or following the transfer, there will be no proposed changes which may affect the quantity or quality of storm water runoff. If there is a request for the transfer of a Land Disturbance Permit and there are to be one (1) 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 Land Disturbance Permit prior to his involvement with the operation of such project.

## **F. Signatory Requirements**

1. All applications and correspondence required by this ordinance to be submitted to the City shall be signed as follows:
  - (a) 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 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 signature shall be provided to the City, upon his request.

- (b) 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.
  - (c) If an application or correspondence is submitted by a partnership, it must be signed by a general partner of the partnership.
  - (d) If an application or correspondence is submitted by a sole proprietorship, it must be signed by the proprietor.
  - (e) If an application or correspondence is submitted by 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.
2. 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 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 or of the Qualified Credentialed Professional responsible for preparing any portion of the application or correspondence, 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."

## **Sec. 17-9. Best Management Practices – Tier 1 Land Disturbance Permit**

### **A. Design and Performance Standards**

The following are required for all land-disturbing activities that require a Tier 1 Land Disturbance Permit, see Section 17-8.B, and will take effect 365 days following the effective date of the City of Mobile NPDES ALS000007 permit for its MS4. All applications for a Land Disturbance Permit must contain, or be accompanied by, the materials and information necessary to satisfy the requirements of this Ordinance and must be accompanied by a Construction Best Management Practices (CBMP) plan. The CBMP plan shall be prepared by a qualified credentialed professional and shall include the following:

1. The CBMP shall be accompanied by an engineering map or plan of the property upon which land-disturbing activities are to be conducted, prepared by a registered engineer or 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 evaluations of all streets which abut such property. Such map or plan shall show all existing drainage facilities and all natural drainage on such property and on such adjacent property.
2. All proposed contours, the proposed temporary and permanent disposition of surface water and the proposed drainage structures.
3. The proposed contours in the map or plan shall be depicted in contour intervals of a minimum of one (1) foot. All maps and plans submitted shall be on a standard sized sheet twenty-four (24) inches by thirty-six (36) inches and drawn to a scale of not less than one (1) inches equals one hundred (100) feet. Contour intervals of more than one (1) foot and maps or plans which are smaller than the standard size may be approved by the City Engineer, upon written request and for good cause shown. All sheets will be standard paper sizes.
4. The CBMP 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 sequence of construction and projected time schedule for the commencement and completion of the land-disturbing activity, specifications for CBMP plan maintenance during the project and after 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 CBMP plan shall include the series of BMPs and shall be reviewed by, and subject to the approval of, the City Engineer prior to the issuance of the Tier 1 Land Disturbance Permit. An ADEM Notice of Registration (NOR) shall be submitted with the 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.

5. Where appropriate, in the opinion of the qualified credentialed professional who prepares the CBMP plan, to the maximum extent practicable, the CBMP 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.
6. Whenever the City Engineer determines that a CBMP plan does not comply with this ordinance, he shall notify the applicant in writing of the ways in which the CBMP plan does not comply with this ordinance.
7. To the maximum extent practicable, sediment in runoff water must be minimized by using appropriate BMPs.
8. Structural controls shall be designed by a registered Alabama professional engineer. 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 the MS4 must be addressed in a manner consistent with good engineering practices and the requirements of this ordinance.

9. Control measures shall be maintained as an effective barrier to sedimentation and erosion in accordance with the provisions of this ordinance.
10. 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 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.
11. 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 City of these facts, and request a final inspection. The City shall then inspect the site within five (5) working days after receipt of the engineer's as-built certification, see Section 17-7(15), and may require additional measures to stabilize the soil and control erosion and sedimentation. If additional measures are required by the City, written notice of such additional measures shall be delivered to the owner, and the owner shall continue to be covered by the Land Disturbance Permit issued with respect to the land-disturbing activity until a final and complete inspection is made to the satisfaction of the City. The owner's professional engineer shall certify to the City that land-disturbing activity is finished and stable, and vegetation or other permanent controls have been established on all remaining exposed soil for the site. Following receipt of an acceptable final engineer's as built certification of the project and satisfactory inspection, the City will deliver to the owner, within ten (10) days of the date of such certification, a sign-off will be entered in the permitting system showing that the erosion control requirements of the Land Disturbance 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.
12. The CBMP 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. Unless the City determines that sufficient security for compliance with the

requirements of this Ordinance is already in place, a letter of credit, a surety 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:

- (a) The City 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 creditor or the surety bond.
- (b) 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 City.
- (c) The security for clearing operations only shall be in the amount of one thousand dollars (\$1,000.00) per acre for each acre, or fraction of an acre, disturbed or affected by such operations.
- (d) The security for earthwork or clearing and earthwork operations shall be in the amount of three thousand dollars (\$3,000.00) per acre for each acre, or fraction of a acre, disturbed or affected by such operations.
- (e) 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 flood ways, flood plains or areas susceptible to landslides.
- (f) Each letter of credit must be issued by a bank which has its principal office in the City.
- (g) 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 the state and which is otherwise reasonably satisfactory to the City.

## **B. Notice of Construction Commencement and Construction Inspections for Tier 1 Land Disturbance Permits**

### 1. Notice of Construction Commencement

The permittee under a Tier 1 Land Disturbance Permit must notify the City in advance before the commencement of construction.

### 2. Construction Inspections

Regular inspections of the storm water management system construction shall be conducted by a certified professional engineer, or a Qualified Certified Inspector ("QCI") or Qualified Credentialed Professional ("QCP"). All inspections shall be documented and written reports prepared that contain the following information:

- (a) The date of the inspection;
- (b) Whether construction complies with the approved CBMP Plan;
- (c) Any deviation from the approved construction specifications; and
- (d) Any violations of the Storm Water and Flood Control Ordinance.

Any violations will be processed in accordance with Section 17-14 of this Ordinance.

### 3. Final Inspection - Submittal of "As Built" Plans

Permittees are required to submit "as-built" plans for any storm water management practices located on-site after final construction is completed in CAD form. The plan must show the final design specifications for all storm water management facilities and must be certified by a professional engineer. No performance securities will be released before the City Engineer or his agent completes a final inspection and approval of the storm water management facilities.

## **C. Land Stabilization Requirements for Tier 1 Land Disturbance Permits**

1. Any land surface from which the natural vegetative cover has been either partially or wholly cleared or removed by development activities shall be revegetated within ten (10) days from the substantial completion of clearing and construction, see Section 17-6(1) of this Ordinance. Revegetation must meet the following criteria:
  - (a) All reseeding must use an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control

erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area. Reseeding can be accomplished with solid sodding (Bermuda).

- (b) Detention ponds must be solid sodded.
  - (c) When replanting with native woody and herbaceous vegetation, the ground must be covered by straw mulch or its equivalent in an amount of sufficient coverage to control erosion until the plantings are established and capable of controlling erosion.
  - (d) Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.
2. A landscaping plan must be submitted with the final design describing the temporary and permanent vegetative stabilization and management techniques to be used at a site for construction. This plan will not only explain how the site will be stabilized after construction, but also identify who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a registered QCP or Professional Engineer licensed by the State of Alabama and must be approved prior to receiving a permit reporting compliance with plan.

#### **D. Waivers of Storm Water Management Requirements**

- 1. Every applicant for a Tier 1 Land Disturbance Permit shall provide for storm water management both during construction and post-construction as required by this ordinance, unless a written request is filed to waive this requirement. Requests to waive the storm water management plan requirements shall be submitted to the City Engineer for approval.
- 2. The minimum requirements for storm water management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:

- (a) It can be determined that the proposed development is not likely to impair attainment of the objectives of this ordinance.
- (b) Alternative minimum requirements for on-site management of storm water discharges have been established in a storm water management plan approved by the City Engineer and implemented pursuant to this ordinance.
- (c) Provisions are made to manage storm water through an off-site facility. The off-site facility is required to be in place, to be designated and adequately sized to provide a level of storm water control that is equal to or greater than that which would be afforded by on-site practices and there is a legally obligated entity responsible for long-term operation and maintenance of the storm water practice.
- (d) The City Engineer finds that meeting the minimum on-site management requirements is not feasible due to the natural or existing physical characteristics of the site.
- (e) Non-structural practices will be used on the site that reduce:
  - (i) the generation of storm water from the site; and
  - (ii) the size and cost of storm water storage; and the pollutants generated at the site.
- (f) The City will not grant a waiver if to do so would cause any of the following impacts to downstream waterways:
  - (i) Deterioration of existing culverts, bridges, dams, or other structures, or any element of the City's MS4, private water courses, waters of the State or of the United States;
  - (ii) Degradation of biological functions or habitat;
  - (iii) Accelerated streambank or streambed erosion or siltation;
  - (iv) Increased threat of flood damage to public health, life, property.
- (g) In order to be eligible for a waiver, the applicant must complete a mitigation measure, which may include but is not limited to one of the following:

(i) The purchase and donation of privately owned lands, or the grant of an easement to be dedicated for preservation and/or reforestation. These lands should be located adjacent to the stream corridor in order to provide permanent buffer areas to protect water quality and aquatic habitat. The donation shall run with the land, and shall be recorded in the records of the Office of the Probate Court, Mobile County.

(ii) The creation of a storm water management facility or other drainage improvements on previously developed properties, public or private, that currently lack storm water management facilities designed and constructed in accordance with the purposes and standards of this ordinance.

(iii) Payment of a fee in lieu of storm water practices may be accepted when implementation of otherwise applicable storm water practices is impracticable under the provisions of this Section 17-9.D. The fee will be determined according to a fee schedule established by the City based on the size and type of the development activity.

## **Sec. 17-10. Maintenance and Repair of Storm Water Facilities – Post Construction Storm Water Management in New Development and Redevelopment**

### **A. Maintenance Easement – Tier 1 Developments**

Prior to the issuance of a Tier 1 permit, the owner of the site must agree to a maintenance easement that runs with the land and provides the City all authority required to monitor and enforce BMPs. If the land is to be subdivided, the maintenance easement shall be identified on the subdivision plat recorded in the records of the Probate Judge for Mobile County. The easement shall provide for access to the property at reasonable times for periodic inspection by the City, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this ordinance. Any storm water easement agreement that does not appear on a subdivision plat shall be recorded in the records of the Probate Judge for Mobile County, Alabama.

## **B. Maintenance Covenants – Tier 1 Developments**

Maintenance of all storm water management BMPs shall be ensured through the creation of a formal maintenance covenant that must be approved by the City of Mobile and recorded in the records of the Probate Judge for Mobile County, Alabama, prior to final plan approval. The covenant shall include a schedule for routine maintenance checks, and periodic inspections in a frequency sufficient to assure the proper performance of the BMPs. Maintenance and inspection shall be the responsibility of the property owner.

In the event the storm water BMPs fail to perform effectively, the parties may amend the maintenance covenants by written amendment recorded in the records of the Probate Judge for Mobile County, Alabama.

## **C. Records of Installation and Maintenance Activities**

Parties responsible for the operation and maintenance of a storm water management BMPs shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least five (5) years. Inspections shall be completed by a QCI or QCP. These records shall be submitted to the City Engineer annually on January 1 or such other date designated by the City Engineer. In the event the responsible party fails to provide the annual records, City officials may conduct an inspection of the property. The fee for said inspection shall be \$500 or the actual cost of inspection, whichever is greater.

## **D. Failure to Maintain Practices**

If a responsible party fails or refuses to meet the requirements of the maintenance covenant, the City of Mobile, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to restore or repair the BMPs. In the event that the storm water run-off becomes a danger to public safety or public health, the City of Mobile shall notify the party responsible for maintenance of the BMPs in writing. Upon receipt of that notice, the responsible person shall have fifteen (15) days to correct the deficiency in an approved manner depending upon the severity and nature of the violation. After proper notice, the City of Mobile may assess the owner(s) of the facility for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be collected as a municipal lien in accordance with the procedures applicable to the abatement of public nuisances.

**E. Unauthorized Discharge Prohibited and Declared a Public Nuisance**

1. Unauthorized discharges prohibited. Any discharge of storm water made in violation of this ordinance or of any condition of a Tier 1 Land Disturbance Permit issued or Maintenance Covenant, see Section 17-10.B., entered pursuant to this ordinance is prohibited and is hereby declared a public nuisance subject to correction and/or abatement in accordance with applicable law.
2. Exceptions. Discharges from the following activities will not be considered a source of pollutants to the MS4 and to Waters of the United States and waters of the State when properly managed to ensure that no potential pollutants are present:
  - (a) Discharge from emergency fire-fighting activities;
  - (b) Water used to control dust, as long as no runoff is generated;
  - (c) Potable water including uncontaminated water line flushing not associated with hydrostatic testing;
  - (d) Routine external building wash down associated with construction that does not use detergents;
  - (e) Pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spill material has been removed) and where detergents are not used;
  - (f) Uncontaminated air conditioning or compressor condensate associated with temporary office trailers and other similar buildings;
  - (g) Uncontaminated ground water or spring water;
  - (h) Foundation or footing drains where flows are not contaminated with process materials such as solvents;
3. Except for emergency discharges noted above, allowable discharges shall not allow sediment to wash offsite and into the MS4 and Waters of the United States.

4. The prohibition shall not apply to any storm water discharge permitted under an NPDES permit, waiver or order issued to the discharger and administered under the authority of the ADEM or EPA, provided that the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations.

## **F. Accidental Discharges**

1. Release of hazardous materials. In the event of any discharge of a hazardous substance or a significant spill of a hazardous substance to the MS4 which could constitute a threat to human health or the environment, the Premises owner or operator of the Premises shall immediately notify emergency response agencies of the occurrence via emergency dispatch services (911) and shall also notify the City 311 Operator by phone or e-mail as soon as possible but not later than twenty-four (24) hours from the date and time of the release as to the occurrence of and the quantity of the release.
2. Release of non-hazardous materials. In the event of a release of non-hazardous materials to the MS4, said person shall notify the fire department and the City 311 Operator by phone or e-mail as soon as possible but no later than twenty-four (24) hours from the date and time of the release as to the occurrence of and the quantity of the release.
3. The owner or operator of property on which a release identified in paragraph 1 or 2 above occurs, shall take all necessary steps to ensure the discovery, containment and cleanup of such spill so as to minimize any adverse impact to the waters of the State and waters of the United States caused by discharges to the MS4, including such improved or additional monitoring as may be necessary to determine the nature and impact of the discharge. Absent a compelling public interest to the contrary, it shall not be a defense for the owner or operator in an enforcement action that it would have necessary to halt or reduce the business or activity of the site, or any project or facility thereon, to maintain water quality and minimize any adverse impact that the discharge may cause.

Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City Engineer within three (3) business days of date of the phone or in person notice.

4. Failure to provide notification of a release as provided above is a violation of this ordinance.

### **G. Immediate Threats to Public Health, Welfare or the Environment**

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

## **Sec. 17-11. Illicit Discharge Detection and Elimination (“IDDE”)**

### **A. Applicability**

This section 17-11 applies to all properties (whether developed or undeveloped) that have storm water discharges associated with them and all land uses within the City of Mobile, including, but not limited to, residential, industrial, commercial, agricultural, and construction activity.

### **B. Regulatory Consistency**

This ordinance shall be construed to assure consistency with the requirements of the CWA and the AWPCA and acts amendatory thereof or supplementary thereto or any other applicable regulations.

### **C. Ultimate Responsibility**

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

### **D. Prohibitions of Illicit Discharges and Illicit Connections**

#### 1. Prohibition of Illicit Discharges

- (a) Prohibition. Unless otherwise excepted herein, no person shall spill, dump, throw, drain, make, cause to be made or continue to be made; allow others under such person's control to spill, dump, throw, drain, make, cause to be

made or continue to be made; or otherwise discharge and/or dispose of into the City's MS4 or watercourses any Illicit Discharge, including but not limited to pollutants or waters containing any pollutants, other than storm water.

(b) Exceptions. Discharges from the following activities will not be considered a source of pollutants to the MS4, water of the State or to waters of the United States when properly managed to ensure that no potential pollutants are present, and therefore shall not be considered Illicit Discharges unless determined to cause a violation of the provision of the AWPCA, CWA or this ordinance:

- (i) Water line flushing;
- (ii) Landscape irrigation (not consisting of treated, or untreated wastewater unless authorized by ADEM);
- (iii) Diverted stream flows;
- (iv) Uncontaminated ground water infiltration;
- (v) Uncontaminated pumped ground water;
- (vi) Discharges from potable water sources;
- (vii) Foundation and footing drains;
- (viii) Air conditioning drains;
- (ix) Irrigation water (not consisting of treated, or untreated, wastewater unless authorized by ADEM);
- (x) Rising ground water;
- (xi) Springs;
- (xii) Water from crawl space pumps;
- (xiii) Lawn watering runoff;
- (xiv) Individual residential car washing, to include charitable carwashes;
- (xv) Residual street wash water;



- (xvi) Discharges or flows from firefighting activities (including fire hydrant flushing);
- (xvii) Flows from riparian habitats and wetlands;
- (xviii) Dechlorinated swimming pool discharges; and,
- (xix) Discharges authorized by and in compliance with a separate NPDES permit.
- (xx) Wash water (without the use of chemicals/soaps/solvents) from the cleaning of the exterior of residential or commercial buildings, including gutters, sidewalks and driveways, provided that the discharge does not pose an environmental or health threat.

Discharges associated with dye testing are also allowable discharges under the terms of this section, but this activity requires written notification to and approval in writing by the City Engineer at least fourteen (14) days prior to the date of the test.

- (c) 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 ADEM, provided that the discharger is in compliance with the requirements of the permit, waiver or order and other applicable laws and regulations.

2. Prohibition of Illicit Connections.

- (a) Prohibition. The construction, use, maintenance or continued existence of Illicit Connections to the MS4 is prohibited.
- (b) Past Connections Prohibited. 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 an Illicit Connection to continue.

- (d) Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or a sanitary sewer system upon approval of the City of Mobile.
- (e) Any drain or conveyance that has not been documented in plans, maps or the equivalent and which may be connected to the MS4 shall be located by the owner or occupant of that Premises upon receipt of written notice of violation from the City Engineer requiring that such locating be completed. Such notice will specify a reasonable time within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm drainage system, sanitary sewer, or other, and that the outfall location or point of connection to the storm drainage system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided in writing to the City Engineer.

#### **E. Watercourse Protection**

No person owning a Premises or leasing a Premises through which a watercourse passes may throw, deposit, leave, maintain, keep or permit to be thrown, deposited, left, maintained or kept in any part of a watercourse any trash, debris, excessive vegetation or other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse. A person shall keep and maintain that part of the watercourse on the Premises owned or leased by such person free from any such trash, debris, excessive vegetation and other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse. A person shall only be liable under this ordinance for trash, debris, excessive vegetation and other obstacles that originate from the Premises owned or leased by such person. In addition, the owner or lessee of a Premises shall maintain existing privately owned structures within or adjacent to a watercourse on such Premises, so that such structures will not become a hazard to the use, function or physical integrity of the watercourse.

#### **Section 17-12. Commercial, Industrial and High Risk Facilities**

- A. BMPs required. All commercial, industrial and high-risk facilities, see the definition of "high risk facility" herein, shall identify, implement and maintain BMPs for any activity, operation or facility which may cause or contribute to pollution or contamination of storm

water, the MS4, private watercourse waters of the State or waters of the United States. Non-compliance with such BMPs will constitute a violation of this ordinance.

- B. Protection Against Accidental Discharge. The owner or operator of a commercial, industrial or high risk facility shall provide, at its own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 or private watercourses, waters of the State, or waters of the United States, through the use of structural and non-structural BMPs. Any person responsible for a commercial, industrial or high risk facility 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 discharge of pollutants to the MS4.
- C. Industrial, Construction or Other Activity Discharges – Compliance with NPDES Permits.
1. Any person subject to an industrial, general or construction activity, or other NPDES permit shall comply with all terms and provisions of such NPDES permit. Any person with an NPDES permit shall, to the extent permissible under State law, provide to the City Engineer a copy of the permit, a copy of the storm water pollution prevention plan and copies of all monitoring data and reports submitted to ADEM as required by the NPDES permit. Copies of monitoring data and reports shall be submitted to the City in the manner specified by the City and in the frequency as is submitted to ADEM.
  2. Proof of compliance with said permit in a form acceptable to the City Engineer is required prior to the allowing discharges to the MS4. Compliance with an NPDES permit authorizing the discharge of storm water associated with industrial activity shall be deemed compliance with the provisions of this ordinance.
  3. Notice of Intent (NOI). To the extent permitted by State law, the owner and/or operator of a facility required to have an NPDES permit to discharge storm water associated with industrial and/or construction activity shall submit a copy of the Notice of Intent to Discharge Storm Water (NOI) or other permit application to the City Engineer concurrently with the NOI or other permit application submittal to ADEM.

The copy of the NOI may be delivered to the City Engineer either

In person to:  
City Engineer  
City of Mobile  
205 Government Street  
South Tower, Third Floor  
Mobile, AL 36644

Or by mailing to:  
City Engineer  
City of Mobile  
P. O. Box 1827  
Mobile, AL 36633-1827

- D. To the extent permitted by State law, a person commits an offense under this ordinance if such person operates a facility on a Premises that is discharging storm water associated with industrial and/or construction activity without having obtained an NPDES permit and/or submitted a copy of the original NOI to discharge to the City Engineer, or without complying with BMPs issued by the City, federal or state agency for the specific activity, operation or facility undertaken.

### **Section 17-13. Compliance Monitoring**

- A. Record Retention. Owners of all properties for which a Tier 1 Land Disturbance Permit, or NPDES permit is issued and all other properties for which records of compliance with this storm water ordinance are required, shall maintain such records for a minimum of 5 years. Failure to maintain said records shall be a violation of this Ordinance.
- B. Right of Entry; Inspection and Sampling. Upon reasonable notice to the Premises owner and/or person in possession thereof, the City Engineer, to the extent permissible under State law, shall be permitted to enter and inspect Premises and facilities subject to regulation under this ordinance during normal business hours as often as may be necessary to determine compliance with this ordinance. Identification issued by the City shall be presented by the City Engineer at the time of entry.
- (1) If security measures are in force on a Premises, then the Premises owner shall make the necessary arrangements to allow access to the City Engineer for the purposes of this ordinance. Proof of an Illicit Discharge or an Illicit Connection is not required for entry onto a Premises.
  - (2) Owners and/or operators of a Premises shall allow the City Engineer ready access to all parts of the Premises for the purposes of inspection, sampling, photography, videotaping, testing, and examination; for the copying of records

that must be kept under the conditions of an NPDES permit to discharge storm water; and for the performance of any additional duties as required by State and federal law.

- (3) The City Engineer shall have the right to set up on any Premises such devices as are necessary in the opinion of the City Engineer to conduct monitoring and/or sampling of the Premises' storm water flow discharges.
  - (4) The City Engineer may require the owner and/or operator of a Premises to install monitoring equipment as necessary and to make monitoring data available to the City Engineer. This sampling and monitoring equipment shall be maintained at all times in a safe, calibrated and proper operating condition by the owner and/or operator and his/her/its own expense.
  - (5) Any temporary or permanent obstruction that prohibits safe and easy access to the Premises to be inspect and/or sampled shall be promptly removed by the owner of the Premises at the written or oral request of the City Engineer and shall not be replaced. The costs of clearing such access shall be borne by the owner and/or operator of the Premises.
  - (6) Unreasonable delays in allowing the City Engineer access to a Premises is a violation of this ordinance. A person who is the operator of a Premises with an NPDES permit to discharge storm water commits an offense if such person denies the City Engineer reasonable access to the permitted Premises for the purpose of conducting any activity authorized or required by this ordinance.
- C. Search Warrants. If the City Engineer has been refused access to any part of a Premises from which storm water is discharged, and the City Engineer 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 Engineer may seek issuance of a search warrant from the Mobile Municipal Court.
- D. Emergency Discharge. The City Engineer shall have the right to enter upon any and all parts of a Premises for the purposes of inspection, sampling, and/or examination in the case of an emergency Illicit Discharge or a suspected emergency discharge as is

necessary in the opinion of the City Engineer to contain an Illicit Discharge. Reasonable notice of such entry under the circumstances must be given to the owner and occupant of a Premises. Entry must be made during normal business hours, if possible. Identification issued by the City shall be presented at the time of entry by the City Engineer.

## **Sec. 17-14. Violations, Enforcement and Penalties**

### **A. Violations**

It shall be unlawful and a misdemeanor for any person to:

- (a) Violate any provision of this ordinance.
- (b) Violate the provision of any permit issued pursuant to this ordinance;
- (c) Fail or refuse to comply with any lawful Order or notice to abate issued by the City; or
- (d) Violate the provisions of conditions and safeguards established in connection with grants of variance or special exceptions.

*(Ord. No. 65-007-2009, 3-10-09)*

### **B. Enforcement Remedies for Violations**

1. Notices, citations. When the City has reason to believe that any person or legal entity has violated or continues to violate any provision of this ordinance or any Order issued hereunder, the City may serve that person a verbal warning, and, subsequent to that, a written Notice of Violation ("NOV") citing the particular violation(s) and requesting the offender immediately seek to remedy it. Investigation and/or resolution of the matter in response to the NOV do not relieve the alleged violator of liability for any violations occurring before or after receipt of the NOV. If the violation is not remedied within a reasonable time after issuance of the NOV, the City or its agent may cause to be served on the Violator a Municipal Offense Ticket ("MOT"), a Uniform Non-Traffic Citation and Complaint ("UNTCC"), or swear out a complaint and summons before a

magistrate for appearance of the violator in Municipal Court. All notices, citations and/or complaints shall include:

- (a) The name and address of the alleged violator;
- (b) The address of the Premises (when available) or a description of the building, structure or land upon which the violation is alleged to be occurring or has occurred;
- (c) A citation to the section of this code which has been alleged to have been violated;
- (d) A statement specifying the nature of the violation;
- (e) Scheduled court date and/or pay date; and
- (f) The amount of the scheduled fine for the offense.

2. Stop-Work Order; Revocation of Land Disturbance Permit. In the event that any person holding a permit pursuant to this ordinance violates the terms of said permit or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the City may immediately suspend or revoke the permit, without issuing a Notice of Violation.

### **C. Authority of Municipal Court**

The City of Mobile Municipal Court is vested with the power and jurisdiction to hear and adjudicate the violations provided in this ordinance and to issue orders imposing fines, costs and fees.

### **D. Fines**

1. First Violation – The fine of sixty dollars (\$60.00) shall be assessed for a first violation of this ordinance.
2. Second Violation – The fine of one hundred and fifty dollars (\$150.00) shall be assessed for a second violation of this ordinance within a 30-day period.

3. Third or Subsequent Violation – For a third or subsequent violation committed by the owner during a 30-day period or longer, the violation will be adjudicated and the penalty determined by the municipal judge.
4. If after a ninety (90) day period, all violations of this ordinance have been rectified and no additional violations have occurred during that ninety (90) day period, then any further violations of this ordinance will be assessed as a first violation.

**E. Right to appeal**

A person convicted found guilty of for a violation of this ordinance may appeal within fourteen (14) days to Mobile County Circuit Court for trial *de novo*.

**F. Delivery of 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), or registered mail (return receipt requested), to the address of such party which is in the records of the City or is otherwise known to the City.

**G. Remedies Not Exclusive**

1. 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 to seek cumulative remedies.
2. Nothing in this subsection shall limit the authority of the City Engineer to take any action, including emergency action or any other enforcement action, without first issuing a Notice of Violation.
3. Except where otherwise provided, every day any violation of this ordinance or an order issued hereunder, shall continue shall constitute a separate offense.

**Sec. 17-15** Reserved.

**Sec. 17-16** Reserved.

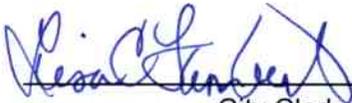
**Repealer**

All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

**Effective Date**

This Ordinance shall become effective upon its adoption and publication as required by law.

ADOPTED: JUL 08 2014

  
\_\_\_\_\_  
City Clerk