

**ORDINANCE NO. 10 -2186**

**AN ORDINANCE TO AMEND CHAPTER 12, ARTICLE IV OF  
THE MUNICIPAL CODE OF THE CITY OF HOOVER**

BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOOVER, ALABAMA, in regular meeting duly assembled, a quorum being present, that the Municipal Code of the City of Hoover is hereby amended as follows:

**SECTION I. EROSION AND SEDIMENTATION CONTROL MODIFIED.** Chapter 12 Planning & Development, Article IV Erosion and Sedimentation Control, Sections 12-90 through 12-118 are hereby deleted and are replaced with Sections 12-90 through 12-117 attached hereto as Exhibit A.

**SECTION II. SEVERABILITY.** If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City of Hoover hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional. Any provision found herein to be in direct contravention with State law or federal law either presently existing or enacted after the date of passage of this ordinance shall be superseded by such law and rendered unenforceable without effect to those provisions found herein that are not in contravention with State and/or federal law.

**SECTION III. LEGAL RIGHTS NOT IMPAIRED.** That nothing in this ordinance shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

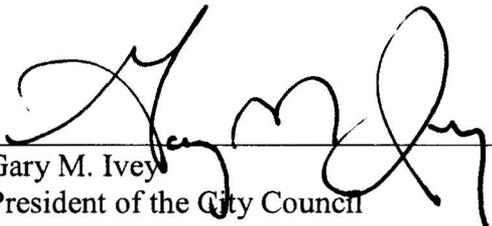
**SECTION IV. ORDINANCE CUMULATIVE; COMPATIBILITY WITH OTHER REGULATIONS.** This Ordinance shall not be construed to modify or to repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this Ordinance are in addition to and cumulative to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

**SECTION V. PUBLICATION OF ORDINANCE.** That the City Clerk of the City of Hoover is hereby ordered and directed to cause this ordinance to be published and that a copy of this Ordinance be entered upon the Minutes of the meeting of the City Council.

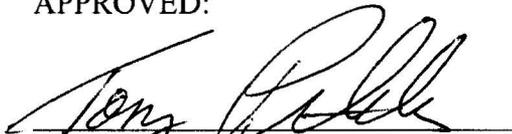
**SECTION VI. EFFECTIVE DATE OF ORDINANCE.** That this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect upon publication thereof and shall continue in full force and effect from month to month and year to year from its effective date until repealed.

**THEREFORE, BE IT RESOLVED,** that the City Council of the City of Hoover does hereby ordain, resolve, and enact the foregoing Ordinance for the City of Hoover.

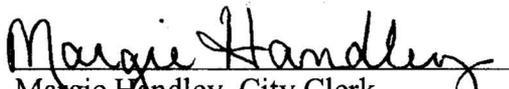
Done this the 4 day of Jan., 2010.

  
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Gary M. Ivey  
President of the City Council

APPROVED:

  
\_\_\_\_\_  
Tony Petelos, Mayor

ATTESTED:

  
\_\_\_\_\_  
Margie Handley, City Clerk

# **Exhibit A**

## ARTICLE IV. EROSION AND SEDIMENTATION CONTROL

### Sec. 12-90. Definitions.

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

*Accidental discharge.* A discharge prohibited by this article into the MS4 or community water which occurs by chance and without planning or consideration prior to occurrence.

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

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

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

*Alabama Water Pollution Control Act ("AWPCA").* The state act found in *Code of Alabama* §22-22-1 *et seq.* and any subsequent amendments thereto.

*Applicant.* Any person, firm, corporation or governmental agency who executes the necessary forms to procure approval of best management practices plans from the Official.

*Best management practices ("BMPs").* Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures and other management practices designed to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters or stormwater conveyance systems. Best management practices also include treatment requirements, operating procedures and practices to control facility site runoff, spillage or leaks, sludge or waste disposal or drainage from raw material storage and construction sites.

*Board.* The Hoover Code Appeals Board.

*City.* The City of Hoover, Alabama, a municipal corporation organized under the laws of the State of Alabama.

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

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

*Construction best management practices plan ("CBMP Plan").* A set of drawings and/or other documents submitted by a person as a prerequisite to obtaining a permit, which contain all of the information and specifications pertaining to BMPS.

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

*Contour line.* A line joining points having or representing equal elevations.

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

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

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

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

*Erosion.* The process by which the land is worn away by the action of water, wind, ice or gravity.

*Erosion Control.* The application of measures to reduce erosion of land surfaces.

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

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

- (1) Any pipe, drain, open channel, connection or conveyance, whether on the surface or subsurface, that allows an Illicit Discharge to enter the City's MS4 including but not limited to any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drainage system and any connections to the storm drainage system from indoor drains and sinks, regardless of whether said pipe, drain, open channel, connection or conveyance had been previously allowed, permitted, or approved by an authorized enforcement agency; or
- (2) Any drain or conveyance connected from a commercial or industrial land use to the City's MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

*Illicit Discharge.* Any discharge (whether direct or indirect) to the City's MS4 that is not composed entirely of storm water, except discharges as exempted in Chapter 12, Article V, Section 12.156 of this Code.

*Minor Extension.* An addition to an existing utility pipeline or other utility line in which the land disturbed consists of fewer than one thousand (1,000) linear feet.

*Municipal Separate Storm Sewer System ("MS4").* A conveyance or system of conveyances (including, but not limited to, sidewalks, highways, roads with drainage systems, municipal streets, inlets, catch basins, curbs, gutters, ditches, natural and man-made or altered drainage channels, reservoirs, pumping facilities, structural stormwater controls, swales, or piped storm drains) owned, operated or maintained by the City of Hoover, Alabama; designed or used for collecting and/or conveying stormwater; not used for collecting or conveying sewage; and not part of publicly-owned sewage treatment works as defined in 40 C.F.R. §122.2.

*NPDES.* National Pollutant Discharge Elimination System.

*Official.* The City Engineer or his/her designee will serve as the Official for the administration and enforcement of this article.

*Outfall.* A point source (meaning any discernable, 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, but not including return flows from irrigated agriculture or agricultural water runoff) at the point of a discharge to waters of the United States of America.

*Permit.* Any permit issued pursuant to this article and/or pursuant to NPDES requirements.

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

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

*Pollutant.* Includes, but is not limited to, the pollutants specified in *Code of Alabama* (1975) § 22-22-1(b)(3) and any other effluent characteristics specified in a Permit. Also includes anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; cleaning chemicals; degreasers; 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, 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; concrete and cement; detergents (biodegradable or otherwise); and noxious or offensive matter of any kind.

*Pollutant loading.* The amount of a pollutant entering the MS4.

*Premises.* Any building, lot, parcel of land, or portion of land whether improved or unimproved including facilities, adjacent sidewalks and parking strips located thereon and includes all land uses.

*Qualified credentialed professional.* A certified professional in erosion and sediment control (CPECS) as determined by the Soil and Water Consideration Society (SWCS) or the

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

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

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

*Site.* Any tract, lot or parcel of land or combination of contiguous tracts, lots or parcels of land which are under a single ownership, and any combination of tracts, lots and parcels which are contiguous, are owned by two (2) or more parties and are to be developed as a unit, subdivision or project.

*Stabilization.* The prevention of soil movement by any of various vegetative and/or structural means.

*State.* The state of Alabama.

*Stormwater.* Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation. It is that portion of the rainfall and resulting surface flow that is in excess of that which can be absorbed through the infiltration capacity of the surface of the basin.

*Stormwater discharge.* Any discharge to the City's MS4 that is composed entirely of stormwater.

*Stormwater management.* The incorporation of a variety of activities and equipment into a plan to address concerns associated with stormwater for the purpose of preventing pollution, improving water quality, keeping pollutants out of runoff, and the implementation of best management practices.

*Stormwater management program* (“the management program” or “the program”). A program developed by the City that covers the duration of the Permit. It shall include a comprehensive planning process which involves public participation and, where necessary, intergovernmental coordination, to reduce and discharge of pollutants, to the maximum extent practicable, using management practices control techniques and system design and engineering methods and such other provisions which are appropriate.

*Stormwater permit.* An NPDES permit issued by ADEM under authority delegated to a state pursuant to 33 U.S.C. ' 1342(b) that authorizes discharges of stormwater to waters of the United States and waters of the State, whether the permit is applicable on an individual, group, or general area-wide basis.

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

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

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

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

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

*Waters of the State.* Ground-water (percolating or otherwise), lakes, bays, ponds, impounding reservoirs, springs, rivers streams, creeks, wetlands, marshes, inlets, canals inside the territorial limits of the State, and all other bodies of surface water, natural or artificial, navigable or non-navigable, and including the bed and banks of all watercourses and bodies of surface water that are wholly or partially inside or bordering the State or inside the jurisdiction of the State.

*Waters of the United States.* Surface watercourses and water bodies as defined in 40 CFR §122.2, including all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry storm water at and during all times and seasons.

**Sec. 12-91. Administration.**

The City Engineer of the City of Hoover shall administer, implement, and enforce the provisions of this article, on behalf of the City as a part of the City's stormwater management program, and shall act as the Official for the provisions of this article. Any powers granted or duties imposed upon the Official may be delegated in writing by the City Engineer to persons or entities acting in the beneficial interest of or in the employ of the City.

**Sec. 12-92. Application.**

(a) Before the commencement of any land-disturbing activity that is not exempted from obtaining a permit under this article, the owner of the land on which such activity shall be conducted, or his duly authorized agent, must file with the Official an application for the approval of the owner's CBMP Plan. The Official must either approve or disapprove the CBMP Plan within thirty (30) days of the day it is filed with the Official. If the CBMP Plan is disapproved, the Official must inform the applicant, in writing, of the reasons for its disapproval. If the applicant, on one or more occasions, revises the CBMP Plan or submits to the Official additional documents or information in connection with the CBMP Plan, the Official must make a written response to the applicant with respect to whether such revised CBMP Plan and/or additional documents and information have been approved or disapproved by the Official. All such additional responses must be made by the Official to the applicant within thirty (30) days of the day such revised CBMP Plan or additional documents or information are submitted to the Official. The land-disturbing activity may not be commenced prior to the issuance of the permit by the Official. The issuance of the permit shall not excuse the owner from the need to obtain other required state and local permits or licenses.

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

**Sec. 12-93. Permit application fee.**

Each application for the issuance of a permit shall be accompanied by a nonrefundable fee of one hundred dollars (\$100.00) for individual single-family residences and four hundred dollars (\$400.00) for all other types of land disturbing activities, to help defray the City's cost of processing and reviewing the application and the inspections associated with the application. The applicant must submit three (3) sets of its CBMP Plan with its application and fee to the Official.

**Sec. 12-94. Data required on the application for a permit.**

- (a) All applications for a permit must include the following information:
- (1) Name of applicant;
  - (2) Telephone number of applicant, facsimile number, if any, of applicant, and e-mail address, if any, of applicant;
  - (3) Address where applicant, or other person who can furnish information about the land-disturbing activity (such other person must be a resident of Jefferson County or Shelby County), ("contact person") can be reached;

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

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

(6) Names, addresses, telephone numbers, facsimile numbers, if any, and e-mail addresses, if any, of all contractors and subcontractors who shall implement any CBMP Plan; provided, however, that if the contractor and the subcontractors have not been selected when the application for a permit is filed, the applicant shall furnish such information to the Official within five (5) days of the day or days on which the contractor and/or subcontractors are selected;

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

(8) Each application for a permit must be accompanied by a map or a plot of the land on which the land-disturbing activity will be conducted and any other information that is required under the provisions of sections 12-100 and 12-101.

(b) 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 sections 12-100 and 12-101.

#### **Sec. 12-95. Maintenance of records.**

Records of compliance with the provisions of the Permit shall be submitted to the City for review by the Official; provided, that if such records are not maintained within the State and, because of their size, cannot be transmitted to the Official, such records must be delivered to the Official (at no expense to the City) within forty-eight (48) hours of the receipt by the owner, applicant or contact person of a request by the Official for such records.

#### **Sec. 12-96. Amended application; Transfer of permit.**

(a) Amended Permit. A permit may be amended, without the payment of an additional fee, upon the filing with the Official of an amended or restated permit application, containing all changes from the original application; provided, that the holder of the permit shows to the reasonable satisfaction of the Official that there are no proposed changes which may affect the quantity and/or quality of stormwater runoff. If an amended or restated application is filed with the Official with respect to land-disturbing activities for which a permit has been issued, such existing permit shall continue in effect, and the holder of the permit may continue to operate under it unless and until an amended permit is issued in response to the amended or restated application ("amended permit") at which time the original permit shall expire and all land-disturbing activities must be conducted in accordance with the amended permit.

(b) Transferred Permit. A permit may be transferred, without the payment of an additional fee, upon the filing with the Official of an application for transfer, provided, that the holder and proposed transferee of the permit show to the reasonable satisfaction of the Official that, upon or following the transfer, there will be no proposed changes which may affect the quantity and/or quality of stormwater runoff. If there is a request for the transfer of a 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 stormwater runoff, the new owner or operator of such project must apply to the City for a new permit prior to his involvement with the operation of such project.

**Section 12-97. Signatory requirements.**

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

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

(2) 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.

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

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

(5) 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.

(b) Any person signing any application or correspondence required by this article 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. 12-98. Permit required.**

No person may conduct any land-disturbing activity without having obtained a permit from the Official.

**Sec. 12-99. Land-disturbing activities.**

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

- (1) Agriculture;
- (2) Silviculture;
- (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 on any such lot), home repairs, home maintenance work, minor additions to houses, the construction, maintenance or repair of accessory structures and other related activities which result in minor soil erosion. Minor land-disturbing activities include only excavations of less than three thousand five hundred (3,500) 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. Notwithstanding, if warranted by the circumstances, the Official has the discretion to impose an erosion and sedimentation plan and require a permit even though an excavation is less than three thousand five hundred (3,500) 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;
- (5) Minor maintenance, minor repair, and the minor extension of any existing underground public utility lines, except sewer lines; provided, that the utility company which owns such lines has received approval of a general CBMP Plan from the Official for such maintenance, repair, and extension; and provided further, that any utility company making a minor extension in connection with which the land disturbed consists of more than one thousand (1,000) linear feet must give the Official written notice of such extension prior to the commencement of such minor extension;
- (6) The construction, repair or rebuilding of railroad tracks;
- (7) Minor subsurface exploratory excavations under the direction of soils engineers or engineering geologists;
- (8) The opening of individual burial sites in property which has been approved for such use by all necessary governmental authorities;

- (9) Digging of water wells or environmental monitoring wells; or
- (10) 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, is less than three (3) feet in depth, is not intended to support structures, and does not obstruct a drainage course.

The activities referred to in items (2) through (9) above may be undertaken without a permit; however, the persons conducting these excluded activities shall remain responsible for otherwise conducting such activities in accordance with the provisions of this article and any other applicable law, including the proper control of sedimentation and runoff to the MS4. This article shall apply to such land-disturbing activities that drain to the MS4 if a stormwater pollution problem is shown to be caused by such activity following monitoring procedures and complaints.

**Sec. 12-100. BMP approval requirements – General requirements.**

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

- (1) Persons conducting land-disturbing activities shall take all reasonable measures referred to, or provided for, in this article to protect all public and private property from damage caused by such activities and to reduce stormwater pollution to the maximum extent practicable.
- (2) No land-disturbing activities subject to this article shall be undertaken except in accordance with the following requirements:
  - (a) The person(s) proposing to conduct any land-disturbing activity or an agent, contractor or other representative of such person must contact the Official at least five (5) business days before commencement of the land-disturbing activity to advise the Official of the commencement of such land-disturbing activity, unless, for good cause shown, the Official permits such person, contractor, agent or other representative to contact him nearer to the date of the commencement of such land-disturbing activity.
  - (b) Other than land-clearing activities required to install the appropriate BMPS in accordance with CBMP Plans, any downslope erosion and sediment control measures, on-site stream channel protection and up slope diversion of drainage required by the CBMP Plan shall be in place and functional before any clearing or earth-moving operations begin, and shall be constructed and maintained throughout the construction period. Temporary measures may be removed at the beginning of the workday, but shall be replaced at the end of the workday.
  - (c) The angle for graded slopes and fills shall be no greater than the angle, which can be retained by vegetative cover or other adequate erosion control devices or structures. Any slope or fill which has been graded

shall, within fourteen (14) days of the completion of such grading or the completion of any phase of grading, be planted or otherwise provided with ground cover, materials, devices or structures sufficient to restrain erosion. The BMPs shall remain in place in accordance with the CBMP Plan until the graded slope or fill is stabilized.

- (d) Adequate protective measures shall be provided for the containment of hazardous substances and any other materials which may pollute the MS4, including petroleum products, lubricants and paint.
- (e) All control measures shall be checked, and repaired as necessary, monthly in dry periods and within twenty-four (24) hours after any rainfall at the site of three-quarters (0.75) inch within a twenty-four-hour period. During prolonged rainfalls, daily checking and, if necessary, repairing shall be done. The permittee shall maintain written records of such checks and repairs, which records shall be subject to the inspection of the Official at any reasonable time.
- (f) The CBMP Plan shall show the size of disturbed area and a schedule of the projected starting and completion dates of the land-disturbing activity.
- (g) A site plan, accompanied by a written description of BMPs which are shown on the site plan, and a schedule of implementation during land-disturbing activities and construction shall be furnished to the Official prior to the commencement of any land-disturbing activities.
- (h) A description of, and procedures for, proper storage, handling and disposal of construction materials stored on-site which could contribute to the pollutant loading to the MS4, shall be furnished to the Official prior to the commencement of any land-disturbing activities.

**Sec. 12-101. BMP approval requirements – Design and performance standards.**

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

All applications for a permit must contain, or be accompanied by, the materials and information necessary to satisfy the requirements of Section 12-100 and this section and must be accompanied by a CBMP Plan. The CBMP Plan shall be prepared by a qualified credentialed professional and shall include the following:

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

- (2) All proposed contours, the proposed temporary and permanent disposition of surface water and the proposed drainage structures; provided, however, the CBMP Plans for utility projects, except sewer projects, shall not be required to show the proposed contours.
- (3) The proposed contours in the map or plot shall be depicted in contour intervals of two (2) or fewer feet; provided, however, the CBMP Plans for utility projects, except sewer projects, shall not be required to show the proposed contours. All maps, plots and plans submitted shall be on a sheet of paper at least twenty-four (24) inches by thirty-six (36) inches and drawn to a scale of not less than one (1) inch equals one hundred (100) feet. Contour intervals of more than two (2) feet and maps, plots or plans which are smaller than the required size may be approved by the Official, upon written request and for good cause shown.
- (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, stormwater management considerations, a 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 Official prior to the issuance of the permit.
- (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 Official determines that a CBMP Plan does not comply with this article, he shall notify the applicant in writing of the ways in which the CBMP Plan does not comply with this article.
- (7) To the maximum extent practicable, sediment in runoff water must be minimized by using appropriate BMPs.
- (8) Structural controls shall be designed and maintained as required to minimize erosion and pollution to the maximum extent practicable. All surface water flowing toward the construction area shall, to the maximum extent practicable, either be passed through the site in a protected channel or diverted by using berms, channels or sediment traps, as necessary. Erosion and sediment control measures shall be designed, according to the size and slope of the disturbed areas or drainage areas, to minimize erosion and to control sediment, to the maximum extent practicable. Discharges from sediment basins and traps must be conducted in a manner consistent with good engineering practices. Sediment-laden, or otherwise polluted, water discharged to MS4 must be addressed in a manner consistent with good engineering practices and the requirements of this article.

- (9) Control measures shall be maintained as an effective barrier to sedimentation and erosion in accordance with the provisions of this article.
- (10) There shall be no distinctly visible floating scum, oil or other matter contained in the stormwater discharge. The stormwater 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 waters of the state. The stormwater 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 waters of the state.
- (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 Official of these facts, and request a final inspection. The Official shall then inspect the site within five (5) working days after receipt of the notice, and may require additional measures to stabilize the soil and control erosion and sedimentation. If additional measures are required by the Official, written notice of such additional measures shall be delivered to the owner, and the owner shall continue to be covered by the permit issued with respect to the land-disturbing activity until a final and complete inspection is made and the Official approves the project as having been satisfactorily completed and delivers to the owner, within ten (10) days of the date of such approval, a certification of completion showing that the requirements of the permit have been fulfilled. At that time, the site and/or the project constructed thereon may come under the operation of other ordinances of the City.
- (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. A letter of credit, a surety bond or a cash bond (a letter of credit, a surety bond and a cash bond shall be herein collectively referred to as "security") shall be furnished to the City in accordance with the following provisions:
- a. The Official shall require a letter of credit, a surety bond or a cash bond in such amount as specified herein to assure that the work, if not completed or if not in accordance with the permitted plans and specifications, will be corrected to eliminate hazardous conditions, erosion and/or drainage problems. In lieu of a letter of credit or a surety bond required by the City, the owner may file a cash bond with the City in an amount equal to that which would be required in the letter of credit or the surety bond.
  - 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 Official.
  - 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 an acre, disturbed or affected by such operations.
- e. Security equal to double the amounts required in subsections (c) and (d) 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 Jefferson County or Shelby County.
- 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.

**Sec. 12-102. Monitoring and inspection.**

The Official may periodically monitor the quality of stormwater and the concentration of pollutants in stormwater discharges from land-disturbing activities permitted to the MS4 pursuant to this article.

**Sec. 12-103. Detection of illicit connections; Improper disposal and/or discharges.**

The Official shall take appropriate steps to detect and eliminate illicit connections and eliminate improper disposal and/or discharge to the MS4, including the required dry-weather and wet-weather programs to screen illicit connections and improper discharges and identify their source or sources from land-disturbing activities.

CROSS REFERENCE - Illicit Discharge Detection and Elimination, Chapter 12, Article V, Sections 12-150 to 12-166.

**Sec. 12-104. Inspections.**

(a) Pursuant to the terms of the Permit and/or the Permit application, the Official, bearing proper identification, may enter and inspect all land-disturbing activities for regular periodic inspections, investigations, monitoring, observations, measurements, enforcement, sampling and testing to verify compliance with the provisions of this article and the specific CBMP Plans for such land-disturbing activities.. The Official shall inspect the construction site to confirm the implementation and the maintenance of CBMP Plans, otherwise, such site shall be inspected when the Official believes, as a result of complaints or monitoring activity, that land-disturbing activities on the site are causing a substantial pollutant loading which threatens the MS4.

(b) Upon the refusal by any property owner to allow the Official to enter, or to continue an inspection on, a site on which land-disturbing activities or construction work is being done, the Official shall terminate the inspection or confine the inspection to areas to which no objection is raised. If an agent of the Official was making, or attempting to make, such inspection, the agent shall promptly report to the Official the refusal and the reasons for the refusal, if the

reasons are known by the agent. The Official may seek appropriate legal remedies to enable him to make or complete such inspection, including seeking appropriate legal remedies from any court having jurisdiction over the matter. If the court grants a remedy to the Official, the property owner must reimburse the City of all the costs and expenses incurred by the City in obtaining such remedy, including court costs and reasonable attorney's fees.

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

(d) At any time during an inspection, or at such other times as the Official may request information from an owner or his representative, the owner or representative may identify areas of its business, material or processes which contain a trade secret and an inspection of which might reveal such trade secret. To the extent practicable and as allowed by law, the Official shall protect all information, which is designated as a trade secret by the owner or his representative.

**Sec. 12-105. Unauthorized discharge prohibited and declared a public nuisance.**

(a) Any discharge of stormwater made in violation of this article or of any condition of a permit issued pursuant to this article is prohibited and is hereby declared a public nuisance subject to correction and/or abatement in accordance with applicable law.

(b) 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, and therefor shall not be considered unauthorized discharges unless determined by the Official to cause a violation of the provisions of the AWPCA, CWA or this article:

- (1) water line flushing (including fire hydrant testing);
- (2) landscape irrigation water and/or lawn watering;
- (3) diverted stream flows;
- (4) rising ground water;
- (5) residential building wash water without detergents;
- (6) uncontaminated ground water infiltration to storm drains;
- (7) uncontaminated pumped ground water;
- (8) discharges from potable water sources;
- (9) foundation and/or footing drain water (not including active groundwater dewatering systems);
- (10) water from crawl space pumps;
- (11) air conditioning condensation;
- (12) springs;
- (13) street wash water;
- (14) non-commercial or charity car washes;
- (15) individual residential washing of vehicles;
- (16) discharges from natural riparian habitat and/or wet-land flows;
- (17) swimming pool discharges (only if dechlorinated with typically less than one PPM chlorine);

- (18) discharges or flow from firefighting activities and other discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety; and
- (19) any other water source not containing Pollutants.

(c) The prohibition shall not apply to any stormwater discharge permitted under an NPDES permit, waiver or order issued to the discharger and administered under the authority of the ADEM, provided that the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations, and provided that written approval has been granted by the City for any discharge to the storm drainage system/MS4.

**Sec. 12-106. Accidental discharges.**

(a) 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 Official in person or by telephone or facsimile 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.

(b) Release of non-hazardous materials. In the event of a release of non-hazardous materials, said person shall notify the City of Hoover Fire Department and the authorized enforcement agency in person or by telephone or facsimile no later than the twenty-four (24) hours from the date and time of the release as to the occurrence of and the quantity of the release.

(c) The owner or operator of such property 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 been 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 telephone shall be confirmed by written notice addressed and mailed to the Official within three (3) business days of date of the telephone or in person notice.

(d) Failure to provide notification of a release as provided above is a violation of this article.

**Sec. 12-107. Immediate threats to public health or welfare.**

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

**Sec. 12-108. Notification of Violation; Enforcement remedies.**

(a) *Notification of Violation.* Whenever the Official finds that any person is in violation of any provision of this article, or any order issued hereunder, the Official or his agent may serve upon such person written notice of the violation. This Notice of Violation shall contain:

- (1) The name and address of the alleged violator;
- (2) The address of the Premises (when available) or a description of the building, structure or land upon which the violation is occurring or has occurred;
- (3) A statement specifying the nature of the violation;
- (4) A description of the remedial and/or restoration measures necessary to restore compliance with this article and a deadline for the completion of such remedial and/or restoration action;
- (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- (6) A statement that the determination of violation may be appealed to the Hoover Code Appeals Board ("Board") by filing a written notice of appeal with the Board within seven (7) days of service of a notice of violation; and
- (7) A statement specifying that, should the violator fail to restore compliance with this article within the established time schedule, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator as allowed hereunder and collected as allowed by law.

Such notice may require without limitation:

- (1) The performance of monitoring, analyses, and reporting;
- (2) The elimination of illicit connections and/or illicit discharges;
- (3) That violating discharges, practices, or operations shall cease and desist;
- (4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- (5) Payment of an amount equal to administrative and remediation costs; and/or
- (6) The implementation of source control or treatment BMPs.

(b) *Compliance order.* When the Official finds that any person has violated, or continues to violate, this article, he may issue a compliance order to the violator, directing that, within a specified time period, adequate structures and devices be installed, or procedures implemented, and properly operated or other action be taken to remedy such violation. Compliance orders may also contain such other requirements as may reasonably be necessary and appropriate to address such violation, including the construction of appropriate structures, installation of devices and self-monitoring and management practices.

(c) *Cease and desist orders.* When the Official finds that any person has violated, or continues to violate, this article or any order issued under this article, the Official may issue an order to such person to cease and desist all such violations immediately, and direct such person in violation of this article to:

- (1) Comply with this article forthwith; or
- (2) Take such appropriate remedial or preventive action as may be required to address properly a continuing or threatened violation of this article, including halting operations and terminating the discharge.

**Sec. 12-109. Unlawful acts; Misdemeanor.**

It shall be unlawful for any person to:

- (1) Violate any provision of this article;
- (2) Violate the provisions of any permit issued pursuant to this article;
- (3) Fail or refuse to comply with any lawful notice to abate issued by the Official which has not been appealed to the Board within the time specified by such notice; or
- (4) Violate any lawful order of the Official.

Such person shall be guilty of a violation; and each day of such violation, failure or refusal to comply with this article shall be deemed a separate offense and punishable accordingly. Any person found to be in violation of any of the provisions of this article shall be punished by a fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00) and/or up to one hundred eighty (180) days in jail.

**Sec. 12-110. Judicial proceedings and relief.**

(a) The Official may initiate proceedings of any court of competent jurisdiction against any person who has, or who the Official has reason to believe is about to:

- (1) Violate any provision of this article;
- (2) Violate any provision of a permit;
- (3) Fail or refuse to comply with any lawful order issued by the Official which has not been timely appealed to the Board; and/or

(4) Violate any lawful order of the City.

(b) The Official, with the consent of the City Council, may also initiate civil proceedings in any court of competent jurisdiction seeking monetary damages for any damages caused to public stormwater facilities by any person, and may seek injunctive or other equitable relief to enforce compliance with the provisions of this article or to force compliance with any lawful orders of the Official or the Board.

**Sec. 12-111. Variances.**

(a) The Hoover Code Appeals Board ("Board") may grant variances from the requirements of this article; provided, that to do so would not result in the violation of the MS4 NPDES permit or any State or federal law, regulation or other NPDES permit; and provided, further, that exceptional circumstances, applicable to the site with respect to which the variance is requested, exist so that strict adherence to the provisions of this article would result in unnecessary hardship and the granting of such variance would not result in a condition contrary to the intent of this article.

(b) A party seeking a variance must submit a written petition for a variance, which sets forth the specific variance sought and the reasons therefore, along with supporting data as to why the requested variance should be granted. The petition shall include all information necessary to evaluate the requested variance. The petition for a variance shall be filed with the Official.

(c) The Official shall conduct a review of the petition for a variance within ten (10) working days after his receipt of such petition and may either support, or object to, the petition. The Official shall prepare a written statement of support, or a written statement of the reason or reasons for his objection to such petition and shall deliver a copy of such statement to the Board and to the person requesting the variance. The Official shall also transmit a copy of the written petition for variance to the Board along with the Official's written statement.

(d) Once the Official has issued such written statement to the Board, the petition shall be subject to Board action. A hearing before the Board concerning the variance shall take place within fourteen (14) days from the date of receipt of the petition for variance from the Official. The decision of the Board shall be final.

**Sec. 12-112. Notices.**

Whenever the City is required or permitted to:

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

**Secs. 12-113 – 12-133. Reserved.**