

CITY OF CHICKASAW, ALABAMA
ORDINANCE NO. 2021- 11

STORMWATER MANAGEMENT ORDINANCE

WHEREAS, the Mayor and City Council have determined it is necessary to regulate land disturbance activities and stormwater drainage facilities within the corporate limits of the City of Chickasaw in order to promote the continued health, safety and welfare of the citizens of the City of Chickasaw, Alabama.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICKASAW, ALABAMA:

ARTICLE I. ILLICIT DISCHARGE

Section 1-1. Intent.

This article is enacted to preserve, protect and promote the health, safety and welfare of the citizens of the City of Chickasaw, Alabama, through the reduction, control and prevention of the discharge of pollutants to the city municipal separate storm sewer system (MS4). It is the expressed intent of this document to provide for and promote compliance by the city with federal and state laws governing the discharge of pollutants from the MS4 and to provide for and promote compliance with an NPDES permit issued to the city for such discharge. The city does not intend for this article to conflict with any existing federal or state law. The objectives of this article are:

- (1) To protect human life and health;
- (2) To protect the natural assets and resources of the city;
- (3) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user;
- (4) To prohibit illicit connections and discharges to the municipal separate storm sewer system;
- (5) To 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;
- (6) To reduce the need for rescue and relief efforts associated with flooding;
- (7) To encourage the improvement of existing flooding problems in conjunction with new development that enhances and does not impair the city's stormwater drainage system;
- (8) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this article.

Section 1-2. Definitions.

For purposes of this article, the following terms are defined as hereinafter set forth:

ADEM shall mean the Alabama Department of Environmental Management.

BMPs or best management practices shall mean schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the discharge of pollutants to the MS4. BMPs also include treatment requirements, operating procedures, and practices to control facility site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

City shall mean the City of Chickasaw, Alabama, a municipal corporation organized under the laws of the State of Alabama.

Clean Water Act shall mean the Federal Clean Water Act, 33 U.S.C. § 1251 et seq., and regulations promulgated thereunder.

Commercial area shall mean any facility associated with commercial activity which is not subject to its own NPDES permit or an ADEM general stormwater permit.

Discharge or discharge of a pollutant shall mean any addition of any "pollutant" to the MS4. This term does not include an addition of pollutants by any "indirect discharger" or from any source specifically excluded from the definition of "point source."

Discharge monitoring report or DMR shall mean the EPA or ADEM uniform form for the reporting of self-monitoring results by NPDES permittees.

EPA shall mean the Federal Environmental Protection Agency.

Good housekeeping shall mean the use of practical, cost-effective methods to maintain a clean and orderly facility and keep contaminants out of separate storm sewers. It includes activities such as sweeping/trash collection, establishing protocols to reduce the possibility of mishandling chemicals or equipment, and the proper training of employees.

High-risk facility shall mean municipal landfills; other treatment, storage, or disposal facilities for municipal waste (e.g., transfer stations, incinerators, etc.); and hazardous waste treatment, storage, disposal and recovery facilities.

Holder shall mean a person to whom a BMP plan approval has been issued.

Illicit discharge shall mean any discharge to the MS4 that is not composed entirely of stormwater except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the MS4) and discharges from fire fighting and emergency management activities.

Indirect discharger shall mean a nondomestic discharger introducing "pollutants" to a "publicly owned treatment works."

Industrial facility shall mean any facility associated with industrial activity.

Municipal separate storm sewer system (MS4) shall mean a conveyance or system of conveyances (including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains), which is owned or operated by the city, designed or used for collecting or conveying stormwater, and is neither a POTW nor a combined sewer.

NPDES or national pollutant discharge elimination system shall mean the national permitting program implemented under the "Clean Water Act."

Person shall mean any individual, partnership, syndicate, group, firm, company, association, trust, corporation, business, or any entity recognized by law, or any combination of the foregoing.

Person responsible or responsible person shall mean a person who has or represents having:

- (1) An ownership interest in or financial or operational control of a source or potential source of a discharge or a discharge regulated by this article;
- (2) Possession or control of a source or potential source of a discharge regulated by this article who directly or indirectly allowed, either by act or omission, a discharge regulated by this article; or
- (3) Benefited from a source or potential source of a discharge or a discharge regulated by this article. There may be one or more "persons responsible" or "responsible persons."

Point source shall mean 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 discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended), heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, domestic, and agricultural waste discharged into water.

Public works director means the director for the City of Chickasaw Public Works Department or his designated representative.

Publicly owned treatment works or *POTW* shall mean any device or system used in the treatment of municipal sewage or industrial wastes of a liquid nature which is owned by the city. This definition includes sewers, pipes or other conveyances only if they convey wastewater to a POTW providing treatment.

Significant materials shall include, but not be limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under section 101(14) of CERCLA; any chemical the facility is required to report pursuant to section 313 of title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with stormwater discharges.

Stormwater shall mean stormwater runoff, snowmelt runoff and surface runoff and drainage.

Stormwater discharge associated with industrial activity shall have the same meaning as in the "Clean Water Act" and regulations promulgated there under.

Stormwater discharge from sites of industrial activity shall mean stormwater discharges from industrial facilities that are subject to section 313 of title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA) (42 U.S.C. § 11023(b)) or that have significant materials, raw materials, material handling equipment or activities, intermediate products or industrial machinery exposed to stormwater, except for those industrial facilities which possess their own NPDES permit or are subject to an ADEM general stormwater permit. In addition, this definition also shall include industrial facilities that the public works director determines are contributing a substantial pollutant loading to the MS4.

To the extent practicable when used in reference to terms and conditions of NPDES permits (other than the NPDES permit issued to the city) and procedures and methods established by federal regulation, shall mean that the public works director shall defer to these terms, conditions, procedures, and methods so long as the city's compliance with its own NPDES permit, or federal or state law is not jeopardized in any manner.

Water Pollution Control Act shall mean the Alabama Water Pollution Control Act of 1972, and regulations promulgated thereunder.

Section 1-3. Discharge prohibitions.

- (a) The illicit discharge of pollutants to the MS4 is prohibited.
- (b) The discharge of pollutants to the MS4 by discharging stormwater associated with industrial activity is prohibited except as authorized by a NPDES permit. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this article which relate to such discharge.
- (c) The spilling, dumping, or disposal of materials other than stormwater to the MS4 is prohibited.

Section 1-4. Exceptions to prohibition.

The following discharges are specifically excluded from the prohibitions included in section 83-3:

- (a) Water line flushing (including fire hydrant testing).
- (b) Landscape irrigation.
- (c) Diverted stream flows.
- (d) Rising ground waters.
- (e) Uncontaminated ground water infiltration (infiltration is defined as water other than wastewater that enters a sewer system, including sewer service connection and foundation drains, from the ground through such means as defective pipes, sewer service connections, or manholes. Infiltration does not include, and is distinguished from, inflow.)
- (f) Uncontaminated pumped ground water.
- (g) Discharges from potable water sources.
- (h) Uncontaminated groundwater from under drains (French drains or tile drains).
- (i) Air conditioning condensation.
- (j) Irrigation water.
- (k) Springs.
- (l) Water from crawl space pumps.
- (m) Foundation or footing drains.
- (n) Lawn watering.
- (o) Individual residential car washing.
- (p) Flows from riparian habitats and wetlands.
- (q) Swimming pool discharges (if dechlorinated - typically less than one part per million chlorine).
- (r) Street wash water.
- (s) Discharges or flows from fire fighting activities.

Section 1-5. Inspection and monitoring.

- (a) The public works director shall be permitted to enter and inspect facilities subject to regulation under this article as often as may be necessary to determine compliance with this article. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access.
- (b) Facility operators shall allow the public works director ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
- (c) The public works director shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the public works director to conduct monitoring and/or sampling of the facility's stormwater discharge.
- (d) The public works director has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- (e) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the public works director and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (f) Unreasonable delays in allowing the public works director access to a facility is a violation of this article. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this article.
- (g) If the public works director has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this article, 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 article or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the public works director may seek issuance of a search warrant from any court of competent jurisdiction.

Section 1-6. Best management practices (BMPs).

All industrial facilities and high risk facilities are required to implement, at their own expense, structural and nonstructural BMPs, as appropriate, to prevent the discharge of pollutants to the MS4. Further, the public works director may require any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, to implement, at said person's expense, additional structural and non-structural BMPs to prevent the discharge of pollutants to the MS4. To the extent practicable, the public works director shall recognize that storage and handling of significant materials, material handling equipment or activities, intermediate products or industrial machinery in such a manner that they are not exposed to stormwater is an effective BMP. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section.

Section 1-7. Good housekeeping.

Commercial areas and industrial facilities shall employ good housekeeping practices to prevent debris such as paper, bottles, cans, plastic, etc. from entering the MS4 from areas such as parking lots, loading zones, sidewalks, trash cans and dumpster sites. It shall be unlawful for any person to discharge chemicals, waste products or any pollutant to the parking lot or grounds of a commercial area or an industrial facility.

Section 1-8. BMP plan.

Whenever stormwater will be discharged into the MS4 from a site of industrial activity or a high risk facility, the person responsible for such site, except as such site may be expressly excepted from coverage of this article, shall develop and implement a BMP plan sufficient enough to control discharges from his facility. If requested by the public works director, such BMP plan must be provided for review within ten days of the request.

Section 1-9. Modifications to BMP plan.

A BMP plan may be modified in order to comply with any federal, state or local law, regulation, order or standard, or when, in the opinion of the public works director, a modification is necessary to accurately control changes in the character or amount of pollutants of stormwater discharged into the MS4, or any other applicable condition. Deadlines for compliance with the modified requirements shall be determined on a case specific basis.

Section 1-10. Revocation of a BMP plan.

- (a) The public works director may revoke authorization to discharge under a BMP plan, if he determines that one or more of the following conditions exist:
 - (1) The holder provided false information;
 - (2) The holder provided false information with respect to any monitoring, record keeping, or reporting requirements;
 - (3) The holder is convicted of violating the provisions of this article;
 - (4) Any term or condition imposed under a BMP plan was not satisfied;
 - (5) Any federal, state or municipal statute, law, ordinance, regulation, order or standard is being violated by the holder;
 - (6) The holder has refused entry to the public works director for purposes of inspection or monitoring; or
 - (7) For any other reason if, in the judgment of the public works director, the continuance of a BMP plan is not consistent with the purposes of this article.
- (b) Whenever the public works director determines that grounds exist for revocation of a BMP plan, he shall serve upon the holder a written notice of proposed revocation, stating the facts or conduct which warrant revocation of the BMP plan approval, and providing the holder with an opportunity to demonstrate or achieve compliance with all lawful requirements. Within ten days of the date of the notice of proposed revocation, the holder must provide written or demonstrative evidence of satisfactory compliance or a written plan for achieving satisfactory compliance.
- (c) If the holder fails to respond to a notice of proposed revocation or fails to provide adequate evidence of satisfactory compliance or an adequate written plan for achieving satisfactory compliance, the public works director shall deliver, by certified mail/return receipt

requested, a written notice of revocation to the holder. Said notice of revocation shall be effective immediately and shall include a statement of the reasons for revocation and the appeal procedure.

Section 1-11. Emergency suspension of BMP plan.

- (a) Notwithstanding any other provision of this article, the public works director may, without notice, suspend a BMP plan by delivery to the holder, by hand delivery, certified mail/return receipt requested, or the posting in at least three conspicuous places at the site subject to the BMP plan, a notice of emergency suspension of BMP plan. A BMP plan will be suspended under this section only when such suspension is necessary, in the opinion of the public works director, to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or to the environment, or causes interference with the MS4 or causes the city to violate any condition of its NPDES permit. Said notice of emergency suspension of BMP plan shall state the grounds for suspension and the corrective action necessary for reinstatement of the BMP plan.
- (b) Any holder notified of suspension under this section shall immediately stop the activity generating the discharge noted in the notice of emergency suspension. The public works director shall reinstate resumption of activities upon proof of the elimination of the endangering discharge or circumstances.
- (c) Emergency suspension of a BMP plan approval may be appealed in accordance with the provisions of section 1-12.

Section 1-12. Appeal.

A person denied discharge under an existing BMP plan (hereinafter "appellant") may appeal the decision of the public works director. Appellant may commence said appeal by filing a written notice of appeal, specifying the grounds for said appeal, with the city manager within 15 days following receipt of the public works director's notice of denial, notice of revocation, or notice of suspension. At the hearing, the public works director shall state his grounds for denying, revoking, or suspending discharge and shall provide any evidence supporting such action. Evidence on appellant's behalf may be presented at such hearing. The decision of the hearing shall:

- (1) Sustain the decision of the public works director; or
- (2) Reverse or vary the decision of the public works director, specifying the manner in which any variations shall be made, the conditions upon which they are to be made and the reasons therefore.

Section 1-13. Sections 1-7 through 1-12, inapplicable to discharges or activities authorized by a NPDES permit.

The provisions of sections 1-7, 1-8, 1-10, 1-11 and 1-12 shall not apply to a discharge or activity specifically authorized by a NPDES permit.

Section 1-14. Noncompliance.

It shall be unlawful to refuse or fail to comply with the terms or conditions of a BMP plan approval issued under this article.

Section 1-15. False information and tampering.

- (a) It shall be unlawful for any person to provide false information to the public works director or anyone working under the public works director's supervision when such person knows or has reason to know that the information provided is false, whether such information is required by this article, any BMP plan approval granted under this article, or any inspection, record keeping or monitoring requirement carried out or imposed under this article.
- (b) It shall be unlawful for any person to falsify, tamper with, or knowingly render inaccurate any monitoring device or method required under this article or a BMP plan approval issued hereunder.

Section 1-16. Method of enforcement.

The public works director is authorized to issue citations to appear in municipal court to answer charges of violation of any of the provisions of this article. In no event shall any enforcement action under this article be taken for an alleged violation of this article if any of the following conditions exist:

- (1) ADEM has issued a notice of violation with respect to the same violation and is proceeding with enforcement action;
- (2) ADEM has issued an administrative order with respect to the same alleged violation and is proceeding with enforcement action; or
- (3) ADEM has commenced and is proceeding with enforcement action or has completed any other type of administrative or civil action with respect to the same alleged violation.

However, enforcement action under this article may be pursued for continued or continuing violations, and each day that a violation of this article continues shall be considered a separate violation.

Section 1-17. Penalties.

Any person who violates any provision of this article or any provision of a BMP plan issued under this article shall be guilty of a violation and, upon conviction, shall be punished as provided by law, including those penalties set forth in Code of Ala. § 11-45-9.

Section 1-18. Existing authorities.

Nothing in this article shall be construed to limit the existing authority of the city to enforce rules and regulations regarding:

- (1) Charges, limits and restrictions on the discharge of waste into the sanitary sewerage system of the city;
- (2) Health or sanitation ordinances of the city enforced by the county health department; or
- (3) Ordinances governing the sanitation of premises where animals are kept.

This article shall be cumulative to and in furtherance of any statutory, common law, or other legal right, duty, power, or authority possessed by the city. Compliance with this article or a BMP plan issued hereunder shall not excuse any person from compliance with any other federal, state or local law, ordinance, regulation, rule or order.

ARTICLE II. STORMWATER MANAGEMENT

Section 2-1. Purpose.

As required by The City of Chickasaw's, Alabama's Phase II municipal separate storm sewer (MS4) National Pollutant Discharge Elimination System (NPDES) Permit, issued by the Alabama Department of Environmental Management (ADEM), the city must develop, implement, and enforce a stormwater management program designed to reduce the discharge of pollutants from its MS4 to the "maximum extent practicable," to protect water quality and to satisfy the appropriate water quality requirements of the Clean Water Act (CWA). This article is therefore enacted to preserve, protect and promote the health, safety and welfare of the citizens of Chickasaw, Alabama, through the reduction, control and prevention of the discharge of pollutants from newly developed and redeveloped sites to the MS4. It is the expressed intent of the city in enacting this article to provide for and promote compliance by the city with federal and state laws governing the discharge of pollutants from the MS4 and to provide for and promote compliance with the city's NPDES permit, issued by ADEM pursuant to its authority under the CWA.

Section 2-2. Definitions.

For the purposes of this article, the following terms shall have the meanings established in this section.

Accidental discharge shall mean a discharge prohibited by this article into the municipal separate storm sewer system that occurs by chance and without planning or consideration prior to occurrence.

ADEM or The Alabama Department of Environmental Management shall mean the State of Alabama's 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 of Alabama.

Adverse impact shall mean 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 be potentially 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 shall mean activities undertaken on land for the production of plants, crops, and animals that are useful to man.

Alabama Handbook shall mean the most recent edition of the Alabama Handbook for Erosion Control, Sediment Control and Stormwater Management on Construction Sites and Urban Areas authored by the Alabama Soil and Water Conservation Committee, Montgomery, Alabama.

Applicant shall mean any individual, partnership, syndicate, joint venture, group, firm, company, association, trust, public or private corporation, business, estate, commission, board, utility, cooperative, county, city or other political subdivision, or any entity recognized by law including but not limited to any duly authorized agent, or any combination of the foregoing, that executes the necessary forms to procure an effective, issued permit to discharge under the NPDES.

AWPCA or The Alabama Water Pollution Control Act, Code of Alabama 1975, §§ 22-22-1, et seq., and the Alabama Environmental Management Act, Code of Ala. 1975, §§ 22-22A-1, et seq., both as amended, and regulations promulgated thereunder.

BMPs or Best Management Practices shall mean activities, prohibitions of practices, maintenance procedures and management practices, designed and implemented to prevent or reduce the discharge of pollutants to the MS4. Nonstructural BMPs are strategies implemented to control stormwater runoff that focus on pollution prevention such as alternative site design, zoning and ordinances, education, and good housekeeping measures. Structural BMPs are engineered devices to control, treat, or prevent stormwater runoff pollution. BMPs 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.

BMP plan or Best Management Practices Plan shall mean a set of drawings and/or other documents submitted by the applicant to the city as a prerequisite to obtaining approval to commence construction activities at a development site falling partially or entirely within the city's territorial jurisdiction. The site specific BMP plan contains all of the information and specifications pertaining to the BMPs the applicant will use to control erosion and sedimentation for its development.

Clearing shall mean the removal of trees, shrubs, grass, brush and/or other varied ground cover and vegetation from the land, which, in its undisturbed state, is useful for windbreaks, water retention and the maintenance of topsoil. This definition does not include the ordinary mowing of grass or the maintenance of previously cleared land.

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

CWA or The Federal Clean Water Act, 33 U.S.C. § 1251, et seq., 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 96-483 and Public Law 97-117, 33 U.S.C. § 1251-1387.

Discharge shall have the meaning set out in Alabama Administrative Code Section 335-6-6-.02.

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

Drainage area shall mean the area contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridgeline; the area of a drainage basin or watershed, expressed in acres, square miles or other units of area.

Engineer shall mean a person currently licensed by the Alabama State Board of Registration for Professional Engineers and Land Surveyors.

EPA shall mean The Environmental Protection Agency.

Erosion shall mean the process by which land surface is worn away by the action of wind or water.

Erosion and sediment controls shall mean the application of measures to reduce erosion of land surfaces and discharges of sediment from a development site.

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

Land disturbing activities shall mean activities that include any land change, which may result in erosion and the movement of sediment to the MS4, including but not limited to the clearing, dredging, grading, excavation, transporting, and filling of land.

MS4 or the Municipal Separate Storm Sewer System, is comprised of a system of man-made conveyances designed or used for collecting or conveying stormwater, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, and storm drains which are owned and operated by a city, town, county or other public body created by or pursuant to state law. An MS4 does not include a publicly owned treatment works (POTW) or a combined sewer.

NOI or Notice of Intent shall mean the application that must be submitted to ADEM to obtain coverage under the agency's general permit regulating land disturbing activities, applicable to discharges from sites that result in total land disturbance of one acre or greater and sites less than one acre but are part of a common plan of development or sale.

NPDES or the National Pollutant Discharge Elimination System NPDES shall mean the national program of issuing, modifying, revoking, etc., permits under Sections 307, 318, 402, and 405 of the CWA, as well as the state permitting program implemented under the CWA and the AWPCA.

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

Permit shall mean any permit issued pursuant to this article, permitting discharges to the MS4 under the NPDES.

Permittee shall mean any applicant that receives a permit to discharge under the NPDES.

Pollutant shall mean that which includes but is not limited to, the pollutants specified in § 22-22-1(b)(3) of the AWPCA and any other effluent characteristics specified in a permit.

Post-construction strategies shall mean BMPs and other measures for activities that take place after construction occurs, including structural and non-structural controls to obtain permanent stormwater management over the life of the property's use.

PSC or the Alabama Public Service Commission shall mean The State of Alabama's regulatory agency created under Code of Alabama 1975, §§ 37-1-1, et seq., responsible for the regulation of utilities including but not limited to those providing electricity, gas, water, and steam.

QCP or Qualified Credentialed Professional which can be a professional engineer (PE), an Alabama Natural Resources Conservation Service professional designated by the State of Alabama's Conservationist, a Certified Professional in Erosion and Sediment Control (CPESC) as determined by CPESC, Inc., other registered or certified professionals such as a registered landscape architect, registered land surveyor, registered geologist, registered forester, a registered environmental manager as determined by the National Registry of Environmental Professionals (NREP), or a Certified Professional and Soil Scientist (CPSS) as determined by ARCPACS, and other ADEM accepted professional designations, certifications, and/or accredited university programs that can document requirements regarding proven training, relevant experience, and continuing education, that enable recognized individuals to prepare BMP plans, to make sound professional judgments regarding Alabama NPDES rules, the

requirements of Alabama Administrative Code Chapter 335-6-12, planning, design, implementation, maintenance, and inspection of construction sites, receiving waters, BMPs, remediation/cleanup of accumulated offsite pollutants from the regulated site, and reclamation or effective stormwater quality remediation of construction associated land disturbing activities, that meet or exceed recognized technical standards and guidelines, effective industry standard practices, and the requirements Chapter 335-6-12. The QCP shall be in good standing with the authority granting the registration or designation.

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

Sedimentation shall mean the process by which eroded material is transported and deposited by action of water, wind, ice and gravity.

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

Site shall mean any tract, lot, or parcel of land or combination of contiguous tracts, lots or parcels of land to be developed as a unit, subdivision or project.

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

Stormwater shall mean the excess water running off from the surface of a drainage area during and immediately after a period of rain or snow melt. It is that portion of the surface flow that is in excess of that which can be absorbed through the infiltration capacity of the surface of the basin.

Stormwater management shall mean 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 the runoff, and the implementation of BMPs.

Variance shall mean 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.

Vegetative control measures shall mean the establishment of vegetative ground cover that shields the soil surface from raindrop impact and the scouring effects of overland stormwater flow.

Section 2-3. Administration.

The city will enforce the provisions of this article throughout its jurisdiction.

Section 2-4. Permits.

- (a) No land disturbing activities for non-residential development, regardless of size, or that disturb either (i) greater than or equal to one acre; or (ii) less than one acre but whose activity is part of a larger common plan of development or sale that disturbs one acre or more, other than those land disturbing activities exempted from the provisions of this article

as set out in section 5, shall be conducted within the city without first obtaining the necessary permit(s) from the city.

Before the commencement of any land disturbing activities, the applicant must file with the city an application for a permit. All applications for such a permit must include, at a minimum, the following information:

- (1) Name, address, telephone number, and email address of the applicant;
 - (2) If the applicant is not the owner of the project and/or property, the name, address, telephone number, and email address 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 activities are to be conducted;
 - (3) General description of the construction activity for which coverage is desired, along with the address, if any, or latitude and longitude to the nearest second of the entrance to the site upon which the land disturbing activities are to be conducted;
 - (4) A map or a plot of the land on which the land disturbing activities will be conducted and any other information that is required under the provisions of section 2-7 of this article.
- (b) Multiple operators conducting land disturbing activities in a common plan of development may jointly submit an application and be covered by the same permit. An application requesting coverage for multiple operators must include a site plan clearly describing each operator's area(s) of operational control.

- (c) Each application for the issuance of a permit shall be accompanied by a nonrefundable plan review fee as follows:

First:	\$100.00
Second:	\$200.00
Third:	\$500.00
Fourth:	\$1,000.00
Fifth +:	\$2,000.00 each

The applicant must submit its BMP plan with its application and fee to the city. 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 three hundred dollars (\$300.00).

- (d) The city may require the applicant to post a bond in the form of a government security, cash, irrevocable letter of credit, or any combination thereof up to but not exceeding \$5,000.00 per acre of the proposed land disturbing activities. If the applicant fails to comply with the conditions of the permit, the bond may be called by the city and used to bring the site into compliance.
- (e) An applicant's BMP plan will either be approved or disapproved by the city within ten days of the day a complete application, BMP plan, applicable fee, and bonding requirement, if any, are filed with the city.

If the BMP plan is disapproved, the city will inform the applicant, in writing, of the reasons for its disapproval. If the applicant, on one or more occasions, revises the BMP plan or submits to the city additional documents or information in connection with the BMP plan, the city will make a

written response to the applicant with respect to whether such revised BMP plan and/or additional documents and information have been approved or disapproved by the city. All such additional responses will be made by the city to the applicant within ten days of the day such revised BMP plan or additional documents or information are submitted to the city.

Should the city fail to approve or disapprove any initial or revised BMP plans within 30 days of the day said BMP plans are submitted to the city, the BMP plan shall be deemed approved and the applicant may commence land disturbing activities.

All BMP plans certified by a QCP shall be deemed approved by the city, which shall allow the applicant to immediately commence land disturbing activities upon submission of a complete application, BMP plan, applicable fee, and bonding requirement, if any, to the city.

Payment of the applicable fee and bonding requirement, if any, by the applicant, coupled with the city's approval of the application and BMP plan, shall result in issuance of a permit to the applicant.

- (f) The city must be notified immediately upon any change in ownership of property for which a BMP plan has been registered, and/or any change in the person or persons responsible for ensuring compliance with the provisions of this article.

A permit may be amended without the payment of an additional fee upon filing with the city 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 city 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 city with respect to land disturbing activities for which a permit has been issued, such existing permit shall continue in effect, and the permittee may continue to operate under it unless and until an amended permit is issued, at which time the original permit shall expire and all land disturbing activities must be conducted in accordance with the amended permit.

A permit may be transferred without the payment of an additional fee upon filing with the city an application for transfer; provided, that the current permittee and proposed transferee of the 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 and/or quality of stormwater runoff. If the city is not satisfied with any such showing by the current permittee and proposed transferee, the new owner or operator must apply for a new permit prior to participating in the operation of such project.

Any proposed transferee of the permit shall be subject to paragraph (d) of this section.

- (g) All applications and correspondence required by this article to be submitted to the city must be signed by an individual with adequate legal authority to act for or on behalf of the applicant or permittee. Any person signing any application, correspondence or other documentation required by this article must make the following certification:

"I certify, under penalty of law, that this document and any attachments were prepared under my direction or supervision and that I have personally examined, and I am familiar with, the information in this document and any such attachments. Based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and civil penalty."

- (h) The issuance of a permit shall not excuse the owner from the need to obtain other required federal, state, and local permits or licenses.

Section 2-5. Exceptions.

- (a) The following land disturbing activities are excluded from the requirements of this article:
- (1) Any land change on property about which the owner of the property has submitted information to the city proving, to the satisfaction of the city, that such property does not discharge to the MS4.
 - (2) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources. Immediately upon completion of emergency activity the responsible party shall install all control measures and initiate restoration/cleanup activities as required by this article.
 - (3) Agriculture.
 - (4) Silviculture.
 - (5) Such minor land disturbing activities as home gardens, landscaping, 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 erosion.
 - (6) Minor land disturbing activities, such as minor grading for driveways, yard areas and sidewalks, or individual connections for sewer services for single or two-family residences.
 - (7) The construction, repair or rebuilding of railroad tracks.
 - (8) Minor subsurface exploratory excavations under the direction of soils engineers, engineering geologists, or soil scientists.
 - (9) The opening of individual burial sites in property which has been approved for such use by all necessary governmental authorities.
 - (10) The construction of water wells or environmental monitoring wells.
 - (11) Any and all land disturbing activities conducted by entities under the jurisdiction and supervision of the PSC.
- (b) Although not required to obtain a permit, persons engaged in excepted activities shall remain responsible for otherwise conducting such activities in accordance with the provisions of this article and any other applicable regulation or permit(s), including the proper control of sediment and discharges to the MS4.

Section 2-6. Construction Best Management Practices Plan (BMP Plan).

- (a) The City of Chickasaw, Alabama's **Phase II MS4 NPDES** permit allows the city to rely upon ADEM for the setting of standards for appropriate erosion and sediment controls. The city hereby expresses its intent to rely upon the aforementioned standards established by ADEM and requires any BMP Plan filed with the city to be in a format acceptable to ADEM and contain all necessary information and details required by ADEM's applicable regulations and NPDES construction stormwater permit.
- (b) The BMP plan shall be updated as necessary to address changes in the construction activity, site weather patterns, new TMDLs established or approved by EPA, new 303(d) listings approved by EPA, manufacturer specifications for specific control technologies, or as otherwise required by ADEM.

The BMP plan shall be amended if inspections or investigations by federal, state or city officials determine that the existing erosion and sediment controls or other site management practices are ineffective or do not meet the requirements of applicable permits. All necessary modifications to the BMP plan shall be made within seven calendar days following notification of the inspection findings unless granted an extension of time.

If existing erosion and sediment controls or other site management practices prove ineffective in protecting water quality or need to be modified; or if additional erosion and sediment controls or other site management practices are necessary, implementation shall be completed before the next storm event whenever practicable. If implementation before the next storm event is impracticable, then new land disturbing activities must cease until the modified or additional controls can be implemented.

- (c) Whenever the city determines that a BMP plan does not comply with this article, it will notify the applicant in writing of the ways in which the BMP plan does not comply with this article.

Section 2-7. Post-construction requirements for new development and redevelopment.

- (a) The permittee shall develop and implement post-construction strategies for new development and redevelopment that include, at a minimum, a combination of structural and/or non-structural BMPs designed to require, to the maximum extent practicable, that the volume and velocity of pre-construction stormwater runoff is not significantly exceeded, as determined by the city. Said combination of post-construction strategies shall be designed to function during rainfall events with intensities including 2-, 10-, and 25-year-24 hour storm events. The city reserves the right to require the inclusion of larger storm events.
- (b) Post-construction strategies may be incorporated into permittee's BMP plan filed with the city or in a separate document. Said post-construction strategies shall be reviewed, approved, and updated pursuant to the same requirements as those of the permittee's BMP plan.
- (c) Permittee's post-construction strategies must show proposed final site conditions and describe how the volume and velocity of stormwater leaving the site will be managed after construction is complete to require, to the maximum extent practicable, that it does not exceed the volume and velocity of pre-construction stormwater runoff.
- (d) Upon completion, permittee shall file with the city a certified copy of as-built drawings and calculations of any post-construction strategies implemented at the site. Such filing shall demonstrate, to the maximum extent practicable, that final post-construction site conditions comply with subsection (a), above.
- (e) The city reserves the right to inspect post-construction strategies following implementation by permittee and require documentation allocating responsibilities for long-term operation and maintenance of post-construction strategies, as it deems necessary. The city may also require permittee to provide a method of funding to be established or provided to ensure the long term maintenance of any post-construction BMPs.

Section 2-8. Responsibilities of the permittee, property owner and/or developer.

- (a) Once received from the city, the BMP plan bearing the stamp of approval of the city, along with the permittee's NOI, ADEM NPDES permit, any necessary building or other permits, and/or other required documentation shall be maintained at the site during the progress of the work and until a notice of termination has been filed with ADEM, unless impracticable.

If impracticable, the aforementioned records may be maintained at another reasonable location, so long as they can be produced to the city within 48 hours of a request for said records.

- (b) The permittee, or an agent, contractor or other representative of same, shall notify the city at least two working days before the start of construction, unless good cause exists for contacting the city within a lesser timeframe.
- (c) Clearing, except that necessary to establish erosion and sediment controls, shall not begin until all erosion and sediment controls have been installed and have been stabilized.
- (d) The person engaged in or conducting land disturbing activities shall be responsible for maintaining all temporary and permanent erosion and sediment controls during the development of a site. Grading, and erosion and sediment controls shall meet the design criteria set forth in the most recent version of the Alabama Handbook.
- (e) To the maximum extent practicable, pollutants in runoff water must be minimized by using appropriate BMPs.
- (f) Grading and erosion and sediment controls shall be designed and maintained to minimize erosion and the discharge of pollutants to the MS4 to the maximum extent practicable.
- (g) 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.
- (h) When land disturbing activities are finished and stable vegetative control measures or other permanent controls have been established on all remaining exposed soil, the permittee shall notify the city and request a final inspection. The city will inspect the site within five 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 city written notice of such additional measures will be delivered to the permittee, and the permittee shall continue to be covered by the permit until a final and complete inspection is made and the city approves the project as having been satisfactorily completed.

Section 2-9. Inspections.

- (a) The permittee must carry out all applicable inspection requirements set out in ADEM's applicable regulations and NPDES construction general permit.
- (b) The city or its designated agent retains the right to enter property upon which any land disturbing activities are being conducted to carry out its own inspections, investigations, monitoring, observations, sampling, enforcement, and/or to address any complaint. Furthermore, the city or its designated agent retains the right to enter property upon which any post-construction strategies have been implemented pursuant to the requirements of this article to carry out its own inspections, investigations, monitoring, observations, sampling, enforcement, and/or to address any complaint. Prior to conducting any of the aforementioned activities, the representative(s) of the city will notify the permittee, or an authorized representative, at the site, of their presence and anticipated activities on the site. The city will conduct any such inspection activities at reasonable times, provided however that if the city has reasonable cause to believe that discharges from land disturbing activities to the MS4 may cause an imminent threat to human health or the environment, inspection of a site may take place at any time and without notice to the permittee, or an authorized representative at the site.

Whenever information from a permittee, site owner, and/or an authorized representative at a site is requested by the city, said parties may identify certain documents, materials, and/or processes that contain trade secret(s), the inspection of which could potentially jeopardize such trade secret. If the city has no clear and convincing reason to question the proprietary assertion, omission of such materials, documents and/or processes will be noted by the city. To the extent practicable, the city will protect all information which is designated as a trade secret by the permittee, site owner or an authorized representative.

- (c) The city may seek appropriate legal remedies from any court with competent jurisdiction over the site for any wrongful refusal by a permittee, site owner, and/or authorized representative to allow the city to enter and/or continue an inspection on a site. If a court grants a remedy to the city, the site owner must reimburse the city all costs and expenses incurred in obtaining such a remedy.

Section 2-10. Corrective action.

- (a) Any poorly functioning erosion and sediment controls, post-construction strategies, non-compliant discharges, or any other deficiencies observed during inspections conducted pursuant to section 2-9 of this article shall be corrected as soon as possible, but not to exceed five days of the inspection, unless impracticable.
- (b) The permittee shall take all reasonable steps to remove, to the maximum extent practicable, pollutants deposited offsite or in any MS4 conveyance structure.

Section 2-11. Enforcement.

- (a) This article authorizes the following stormwater and non-stormwater discharges: discharges authorized by, and in compliance with, any separate NPDES permit, discharges from fire-fighting activities; fire hydrant flushings; waters used to wash vehicles where detergents are not used; water used to control dust; potable water including uncontaminated water line flushings not associated with hydrostatic testing; routine external building wash down associated with construction that does not use detergents; pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used; uncontaminated air conditioning or compressor condensate associated with temporary office trailers and other similar buildings; uncontaminated ground water or spring water; foundation or footing drains where flows are not contaminated with process materials such as solvents; and landscape irrigation.
- (b) All discharges not explicitly authorized by this article are prohibited. Any discharge to the MS4 made in violation of this article or of any condition of a permit issued pursuant to this article shall be subject to correction and/or abatement in accordance with applicable law.
- (c) The City of Chickasaw, Alabama's **Phase II MS4 NPDES** permit allows the city to rely upon ADEM for the enforcement of certain violations of this article. The city hereby expresses its intent to rely upon ADEM for enforcement of violations of this article, as allowed by the City of Chickasaw, Alabama's **Phase II MS4 NPDES** permit, and agrees to promptly notify ADEM upon observing evidence of any known or suspected violations. Furthermore, no enforcement action will be taken by the city for a violation of the terms of this article if any of the following has occurred:
 - (1) ADEM has issued a notice of violation with respect to the same alleged violation and is proceeding with an enforcement action with respect to such alleged violation;

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- (2) ADEM has issued an administrative order with respect to the same alleged violation and is proceeding with an enforcement action with respect to such violation; or
 - (3) ADEM has commenced, and is proceeding with, an enforcement action, or has completed any other type of administrative or civil action, with respect to such alleged violation.

Any determination or resolution made by ADEM with respect to an alleged violation shall be final, and the alleged violation will not be made the subject of any additional enforcement action by the city for any alleged violations of this article and/or provisions of any permit issued pursuant to this article. However, for violations that have not been appropriately corrected and/or abated pursuant to ADEM's enforcement action, an enforcement action may be pursued by the city.

- (d) Notwithstanding any other provision in this article 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.
- (e) In the event of any accidental 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 permittee of the site shall give notice to the city and the local emergency management city in the same manner and within the same time as is required by state regulations for notice to ADEM.

Absent a compelling public interest to the contrary, it shall not be a defense for the permittee 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.

- (f) Whenever the city finds that any person is in violation of any provision of this article, or any order issued hereunder, the city may serve upon such person a written notice of the violation. Within ten calendar days of the date of such notice, unless an alternate date is approved by the city, an explanation of the violation and a plan for the satisfactory correction and future prevention thereof, including specific required actions, shall be submitted to the city. Submission of such plan shall in no way relieve such person in violation of this article of liability for any violations occurring before or after receipt of the notice of violation. If the person fails to respond within the required timeframe and/or fails to take corrective action within the specified time, the city may proceed with the following enforcement action:

- (1) *Compliance order:* When the city finds that any person has violated, or continues to violate, this article, it 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 be reasonably necessary and appropriate to address such violation, including the construction of appropriate structures, installation of devices and self-monitoring and management practices.
- (2) *Cease and desist orders:* When the city finds that any person has violated, or continues to violate, this article or any order issued under this article in such a manner as to materially adversely affect the health, welfare, environment, 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 issue an order to such person to cease and desist all land disturbance activities immediately, and direct such person in violation of this article to:

- a. Comply with this article forthwith; or
- b. Take such appropriate remedial or preventive action as may be required to address properly a continuing or threatened violation of this article.

(g) 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; or
- (3) Fail or refuse to comply with any lawful notice to abate or take corrective action issued by the city.

Such person who violates any provision of this article or any provision of a BMP plan issued under this article shall be guilty of a violation and, upon conviction, shall be punished as provided by law, including those penalties set forth in Ala. Code § 11-45-9.

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

- (1) Violate any provision of this article;
- (2) Violate any provision of a permit; or
- (3) Fail or refuse to comply with any lawful order issued by the city.

The city 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 city.

Section 2-12. Variances and appeals.

The city may grant a variance from the requirements of this article if there exist exceptional circumstances applicable to a site such that strict adherence to the provisions of this article will result in unnecessary hardship. The applicant shall prepare a written request for a variance stating the specific variance sought and the reasons, with supporting data, for granting such variance. This request shall include descriptions, drawings, calculations, and any other information necessary to evaluate the proposed variance. The city will review the submitted material and make a written determination to approve or disapprove the variance within ten working days after receipt of such a request. There shall be no appeal process for the variance request. The city is the final arbiter of the variance request.

Section 2-13. Liability.

Neither the issuance of a permit pursuant to this article, nor compliance with the provisions of this article, shall relieve any person of the responsibility for damage to any person or property otherwise imposed by law.

Nothing herein shall be construed to require the city or its officials, employees, agents or attorneys to restore or cause the restoration of property damaged by erosion or sedimentation in violation of this article or to otherwise seek or assist others in seeking compensation to private property owners for any such damage caused by a violation of this article. The city and its officials, employees, agents and attorneys shall not be liable for any condition or damages that result from any failure to observe or recognize a hazardous condition, any failure of an approved

plan to prevent erosion or sedimentation, or any failure of the city to cause owners and builders to adhere to the terms of this article. Nothing herein shall be construed to expand the liability of the city or its officials, employees, agents or attorneys nor shall it create any additional, further, different or expanded claim or cause of action.

Nothing in this article shall be construed to limit the city to enforce rules and regulations regarding: (a) charges, limits and restrictions on the discharge of waste into the sanitary sewerage system of the city; (b) health or sanitation ordinances of the county enforced by the Mobile County Health Department; or (c) ordinances governing the sanitation of premises where animals are kept. This article shall be cumulative to and in furtherance of any statutory, common law, or other legal right, duty, power, or authority possessed by the city. Compliance with this article shall not excuse any person from compliance with any other federal, state or local law, ordinance, regulation, rule or order.

It shall be unlawful for any person to provide false information to the city when such person knows or has reason to know that the information provided is false, whether such information is required by this article or any approval granted under this article.

ARTICLE III. CHARGES

Section 3-1. Findings.

- (a) The city maintains a **municipal separate storm sewer system ("MS4")** in accordance with federal and state law, the Clean Water Act, 33 USC § 1251, et seq., the Alabama Water Pollution Control Act and the Alabama Environmental Management Act.
- (b) The city incurs substantial expenses to comply with federal and state stormwater laws.
- (c) The state legislature recognized that the implementation of efficient and effective stormwater programs promotes the public interest and that counties and municipalities require funding to implement and enforce their stormwater management programs, Acts of Alabama, Act No. 2014-439, Code of Alabama, § 11-89C-1 et seq.
- (d) The Code of Alabama (1975), § 11-89C-9(d), authorizes the governing bodies of municipalities in the state with National Pollutant Discharge Elimination System ("NPDES") permits for MS4s to levy a stormwater fee, charge or assessment in accordance with the terms and conditions set out therein.
- (e) The council finds and determines that it is in the public interest to establish a stormwater fee as authorized by the Code of Alabama, § 11-89C-9(d).

Section 3-2. Levy.

- (a) *Residential property.* There is hereby levied pursuant to the Code of Alabama, § 11-89C-9(d)(2), an annual assessment in the amount of ten dollars (\$10.00) per year from or against the owners of residential property in the city limits.
- (b) *Commercial property.* There is hereby levied pursuant to the Code of Alabama, § 11-89C-9(d)(3), an annual assessment in the amount of one-half cent (\$0.005) per square foot of commercial space from or against the owners of commercial property in the city limits of the city, provided, however, that no such fee shall exceed three thousand dollars (\$3,000.00) per year.

Section 3-3. Exemptions.

The following are exempted from the stormwater fees levied under section 3-3 herein:

- (1) Lands and/or facilities owned and/or operated by one or more entities under the jurisdiction and supervision of the state public service commission.
- (2) Lands and/or facilities owned and/or operated by any commission nonjurisdictional electric supplier, as defined by Code of Alabama, § 37-4-140, whose service area extends beyond the boundaries of a single municipal or county jurisdiction.
- (3) Greenfields and/or agricultural land.

Section 3-4. Effective date.

The stormwater fee levied hereby shall become effective upon the passage and approval of this ordinance by the City Council of the City of Chickasaw, Alabama and publication as required by law and shall be added to affected property tax bills on the October 1 immediately following the effective date.

Section 3-5. Collection.

- (a) By agreement with the revenue commissioner of the county, the stormwater fee shall be assessed, collected and enforced in the same manner as ad valorem taxes, and shall be a lien upon any land to which it may be levied.
- (b) The city shall pay to the revenue commissioner a one (1) percent commission on all amounts collected, which commission shall be deposited to the county general fund.
- (c) On a quarterly basis, not later than the twentieth day of January, April, July and October, the city will remit five (5) percent of all stormwater fees collected to the state department of revenue, which will transfer ninety-five (95) percent of the fees it receives to the state treasury to the credit of the state department of environmental management to be used exclusively to pay the costs of performing its duties to carry out programs to implement the stormwater laws.

Section 3-6. Stormwater fund.

The stormwater fees levied and collected pursuant to this division shall be deposited into a fund known as the stormwater fund to be designated for expenses incurred complying with the city's NPDES permit for operation of its MS4, including but not limited to eliminating floatables from and improving water quality in the rivers, streams and waterways of the city and other stormwater management activities required by the city's stormwater management program. All amounts remaining in the stormwater fund at the end of the fiscal year shall not lapse but shall retain their dedication to stormwater purposes.

Section 3-7. Appeal.

Any person aggrieved by the assessment of a stormwater fee levied hereunder may file a written appeal with the city clerk within the sixty-day period following either notice of the fee or payment of the fee, whichever occurs first. The appeal shall explain in detail the reason(s) the person filing the appeal asserts that the stormwater fee was assessed in error. The city will review the appeal and either:

- (1) Prepare an explanation to the clerk of why the stormwater fee was properly assessed;
or,

- (2) Advise the clerk's office that the fee is due to be changed or rescinded and any amount paid reduced or refunded.

The clerk shall communicate the decision of the city to the aggrieved person. Should any person be aggrieved by a decision of the city, such person may appeal that decision by filing written notice of appeal with the city clerk's office within fifteen (15) days from the date of such decision, and the city clerk shall, within fifteen (15) days after the filing of such notice of appeal, send the applicable record to the city council, which shall, within fifteen (15) days after receipt of such transcript, hold a hearing on said appeal. The appeal shall be determined solely on the question of whether the city, in assessing the stormwater fee, acted beyond the limits of its power or abused its discretion.

ARTICLE IV. ADDITIONAL PROVISIONS

Section 4-1. Repealer

That any Ordinance, or parts thereof, heretofore adopted by the City of Chickasaw, Alabama, which is in conflict with this Ordinance be and is hereby repealed to the extent of such conflict.

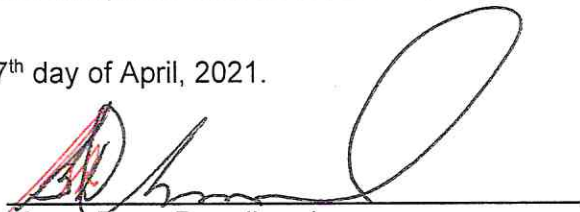
Section 4-2. Severability

The provisions of this ordinance are declared to be severable, and if any provision of this ordinance is declared to be invalid by a court of competent jurisdiction, this determination shall not affect, impair, or invalidate the remainder of this ordinance, but shall be confined in its operation to the section, paragraph, subparagraph, clause or phrase of this ordinance in which such determination shall have been made.

Section 4-3. Effective date.

This ordinance shall become effective upon the passage and approval of this ordinance by the City Council of the City of Chickasaw, Alabama and publication as required by law.

ADOPTED AND APPROVED this 27th day of April, 2021.


Mayor Barry Broadhead

ATTEST:


City Clerk