

ORDINANCE NO 2016-003

AN ORDINANCE, IN PURSUANCE OF THE AUTHORITY GRANTED BY TITLE 22, SUB TITLE 1 CHAPTER 22, SECTIONS 22-22-1, ET SEQ, CHAPTER 22A, SECTIONS 22-22A-1, TITLE 11, SUB TITLE 3, CHAPTER 89C, SECTIONS 11-89C-1, ET SEQ, CODE OF ALABAMA 1975, ET SEQ AS AMENDED, AND US. CODE 33, SECTIONS 1251 THROUGH 1387, AND ANY SUBSEQUENT AMENDMENTS THERETO, TO PROVIDE FOR THE GENERAL WELFARE, SAFETY AND HEALTH OF THE CITIZENS OF INDIAN SPRINGS VILLAGE; AND TO PROVIDE METHODS OF ADMINISTRATION OF THIS ORDINANCE AND PENALTIES FOR THE VIOLATION THEREOF.

THE PUBLIC WELFARE REQUIRING IT, BE IT ORDAINED BY THE TOWN OF INDIAN SPRINGS VILLAGE, ALABAMA AS FOLLOWS:

ARTICLE I – SHORT TITLE

This ordinance shall be known as the Erosion and Sedimentation Control Ordinance

ARTICLE II - EROSION AND SEDIMENTATION CONTROL

Purpose

The purpose of this ordinance is to protect the health, safety, and general welfare of the citizens of the Town of Indian Springs Village, Alabama through the regulation of non-stormwater discharges to the Town's municipal separate stormwater system ("MS4") to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the Town of Indian Springs Village's MS4 in order to comply with requirements of the national pollutant discharge elimination system ("NPDES") permit. The objectives of this ordinance are:

- I. To regulate the contribution of pollutants to the MS4 by stormwater discharges by any user;
- II. To prohibit Illicit Connections and Non-Stormwater Discharges to the MS4;
- III. To prevent non-stormwater discharges, generated as a result of spills, inappropriate dumping or disposal, to the Town's MS4; and,
- IV. To establish legal authority to carry out all inspection, surveillance monitoring and restoration necessary to ensure compliance with this ordinance.

Section 1 - Definitions

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

Accidental discharge. A discharge prohibited by this ordinance 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.



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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.

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 96-483 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.

Commercial facility. Any facility associated with commercial and/or industrial activity which is not subject to an individual NPDES permit or an ADEM general stormwater permit.

Committee. The Citizens' Environmental Advisory Committee.

Construction activity. Activities that require a land disturbing activity permit and are subject to the Town's erosion and sedimentation control provisions and/or NPDES construction permits. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

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.

EPA. United States Environmental Protection Agency.

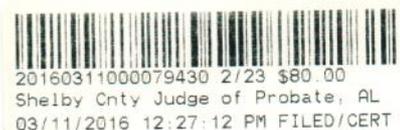
Erosion. The process by which the land is worn away by the action of water, wind, ice or gravity.

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.

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

High-risk facility. Municipal landfills; other treatment, storage, or disposal facilities for municipal waste; hazardous waste treatment, storage, disposal and recover facilities; facilities



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subject to Emergency Planning & Community Right-to-Know Act (EPCRA), Title III, Section 313; and any other industrial or commercial facility that the official determines may make or has made a substantial pollutant contribution to the MS4.

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

- a. Any pipe, drain, open channel, connection or conveyance, whether on the surface or subsurface, that allows an illicit discharge to enter the Town'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,
- b. approved by an authorized enforcement agency; or Any drain or conveyance connected from a commercial or industrial land use to the Town'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 Town's MS4 that is not composed entirely of storm water, except discharges as exempted herein.

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 Town of Indian Springs Village, Alabama; designed or used for collecting and/or conveying stormwater;

NPDES. National pollutant discharge elimination system.

Non-stormwater discharge. Any discharge to the Town's MS4 that is not composed entirely of stormwater.

Official. The Town Engineer or his/her designee will serve as the administrative official for the administration and enforcement of this ordinance.

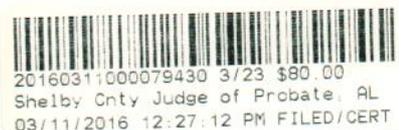
Outfall. A point source (meaning any discernable, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating 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 ordinance 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.



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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 (QCP). 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 pordinances 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 Town'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 Town 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



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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.

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

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.

Structural stormwater control. A structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff, including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

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.

Town. The Town of Indian Springs Village, Alabama, a municipal corporation organized under the laws of the State of Alabama.

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.

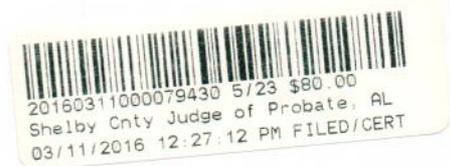
Utility. A business or service which is engaged in regularly supplying the public with some commodity or service which is of public consequence and need, such as electricity, gas, water, telephone service and telegraph service.

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 ordinance would result in unnecessary hardship and the granting of such modification would not result in a condition contrary to the intent of this ordinance.

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

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.



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Section 2 - Administration.

The Town Engineer of the Town of Indian Springs Village shall administer, implement, and follow up enforcement of the provisions of this ordinance, on behalf of the Town as a part of the Town's stormwater management program, and shall act as the Official for the provisions of this ordinance. Any powers granted or duties imposed upon the Official may be delegated in writing by the Mayor to other persons or entities acting in the beneficial interest of or in the employ of the Town.

Section 3 - Application.

Before the commencement of any land-disturbing activity that is not exempted from obtaining a permit under this ordinance, the owner of the land on which such activity shall be conducted, or his duly authorized agent, must file with the 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.

The minimum standards for the issuance of a permit must meet the requirements of this ordinance.

Section 4 - Permit application fee.

Each application for the issuance of a permit shall be accompanied by a nonrefundable fee (See current Fee Schedule). The applicant must submit three (3) sets of its CBMP plan with its application and fee to the Official.

Section 5 - Data required on the application for a permit.

All applications for a permit must include the following information:

- A. Name of applicant;
- B. Telephone number of applicant, facsimile number, if any, of applicant, and e-mail address, if any, of applicant;
- C. Address where applicant, or other person who can furnish information about the land-disturbing activity (such other person must be a resident of Jefferson County or Shelby County), ("contact person") can be reached;
- D. 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;
- E. Legal description and address, if any, of the property upon which the land-disturbing activity is to be conducted;
- F. Names, addresses, telephone numbers, 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;
- G. 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



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for all land-disturbing activities except those related to the construction of individual single-family residences); and,

- H. 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 herein.

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 herein.

Section 6 - Maintenance of records.

Records of compliance with the provisions of the permit shall be submitted to the Town 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 Town) within forty-eight (48) hours of the receipt by the owner, applicant or contact person of a request by the Official for such records.

Section 7 - Amended application; transfer of permit.

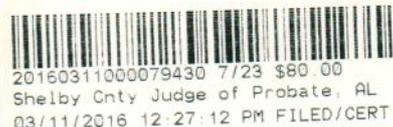
Amended permit. A permit may be amended, with the payment of an additional fee, upon the filing with the Official of an amended or restated permit application, containing all changes from the original application; provided, that the holder of the permit shows to the reasonable satisfaction of the Official 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.

Transferred permit. A permit may be transferred, with 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 Town for a new permit prior to his involvement with the operation of such project.

Section 8 - Signatory requirements.

All applications and correspondence required by this ordinance to be submitted to the Official shall be signed as follows;

- A. If an application or correspondence is submitted by a corporation, it must be signed by the president of the corporation or by a vice-president of the corporation who is in charge of a principal business function of the corporation, or any 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.
- B. If an application or correspondence is submitted by a limited liability company, it must be signed by a manager or other person who serves the same or similar function as the president of a corporation.



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- C. If an application or correspondence is submitted by a partnership, it must be signed by a general partner of the partnership.
- D. If an application or correspondence is submitted by a sole proprietorship, it must be signed by the proprietor.
- E. If an application or correspondence is submitted by the state or the federal government or by any municipal, state or federal agency, it must be signed by either the chief executive officer or a principal executive officer of any such government or by either the chief executive officer, a principal executive officer, or a senior executive officer having responsibility for the overall operations of a principal geographic unit of any such governmental agency.

Any person signing any application or correspondence required by this ordinance shall make the following certification: "*I certify, under penalty of law, that this document and all attachments were prepared under my direction or supervision, and I am familiar with, the information in this document and such attachments. Based on my inquiry of those individuals immediately responsible for obtaining the information or of the qualified credentialed professional responsible for preparing any portion of the application or correspondence, I believe the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and civil or criminal penalty.*"

Section 9 - Permit required.

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

Section 10 - 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:

- A. Agriculture;
- B. Silviculture;
- C. 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 three (3) 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;
- D. Minor land-disturbing activities such as individual connections for utility 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;
- E. Minor maintenance, minor repair, and the minor extension of any existing underground public utility 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;
- F. Minor subsurface exploratory excavations under the direction of soils engineers or engineering geologists;



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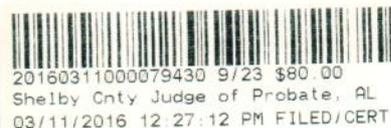
- G. The opening of individual burial sites in property which has been approved for such use by all necessary governmental authorities;
- H. Digging of water wells or environmental monitoring wells; or,
- I. A fill which is less than one (1) foot in depth and placed on a natural ground surface with a 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 (B) through (I) 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 ordinance and any other applicable law, including the proper control of sedimentation and runoff to the MS4. This ordinance shall apply to such land-disturbing activities that drain to the MS4 if a stormwater pollution problem is shown to be caused by such activity following monitoring procedures and complaints.

Section 11 - BMP approval requirements—General requirements.

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

- A. Persons conducting land-disturbing activities shall take all reasonable measures referred to, or provided for, in this ordinance to protect all public and private property from damage caused by such activities and to reduce stormwater pollution to the maximum extent practicable.
- B. No land-disturbing activities subject to this ordinance shall be undertaken except in accordance with the following requirements:
 - 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 one half (0.50) 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



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- 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.

Section 12 - 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.

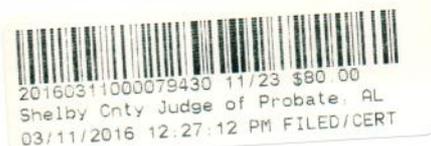
All applications for a permit must contain, or be accompanied by, the materials and information necessary to satisfy the requirements herein and must be accompanied by a CBMP Plan. The CBMP Plan shall be prepared by a qualified credentialed professional and shall include the following:

- A. 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.
- B. 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.
- C. 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) inches 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.
- D. 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.
- E. 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.
- F. Whenever the Official determines that a CBMP plan does not comply with this ordinance, he shall notify the applicant in writing of the ways in which the CBMP plan does not comply with this ordinance.



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- G. To the maximum extent practicable, sediment in runoff water must be minimized by using appropriate BMPs.
- H. Structural controls shall be designed and maintained as required to minimize erosion and pollution to the maximum extent practicable. All surface water flowing toward the construction area shall, to the maximum extent practicable, either be passed through the site in a protected channel or diverted by using berms, channels or sediment traps, as necessary. Erosion and sediment control measures shall be designed, according to the size and slope of the disturbed areas or drainage areas, to minimize erosion and to control sediment, to the maximum extent practicable. Discharges from sediment basins and traps must be conducted in a manner consistent with good engineering practices. Sediment-laden, or otherwise polluted, water discharged to MS4 must be addressed in a manner consistent with good engineering practices and the requirements of this ordinance.
- I. Control measures shall be maintained as an effective barrier to sedimentation and erosion in accordance with the provisions of this ordinance.
- J. 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.
- K. 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 Town.
- L. The CBMP plan must be accompanied by a letter of credit, a surety bond or a cash bond, with the Town 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 Town 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 Town, the owner may file a cash bond with the Town 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.



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- 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 Town 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 Town.

Section 13 - Monitoring and inspection.

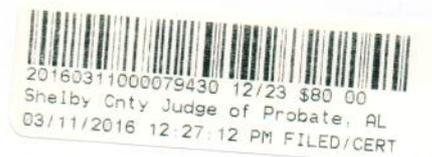
The Official may periodically monitor the quality of stormwater and the concentration of pollutants in stormwater discharges from land-disturbing activities permitted to the MS4 pursuant to this ordinance.

Section 14 - 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.

Section 15 - 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 ordinance 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 Town of all the costs and expenses incurred by the Town 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



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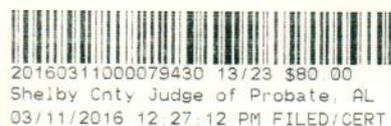
reveal such trade secret. To the extent practicable and as allowed by law, the Official shall protect all information, which is designated as a trade secret by the owner or his representative.

Section 16 - Unauthorized discharge prohibited and declared a public nuisance.

- A. Any discharge of stormwater made in violation of this ordinance or of any condition of a permit issued pursuant to this ordinance 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 ordinance:
- a. Water line flushing (including fire hydrant testing);
 - b. Landscape irrigation water and/or lawn watering;
 - c. Diverted stream flows;
 - d. Rising ground water;
 - e. Residential building wash water without detergents;
 - f. Uncontaminated ground water infiltration to storm drains;
 - g. Uncontaminated pumped ground water;
 - h. Discharges from potable water sources;
 - i. Foundation and/or footing drain water (not including active groundwater dewatering systems);
 - j. Water from crawl space pumps;
 - k. Air conditioning condensation;
 - l. Springs;
 - m. Street wash water;
 - n. Non-commercial or charity car washes;
 - o. Individual residential washing of vehicles;
 - p. Discharges from natural riparian habitat and/or wet-land flows;
 - q. Swimming pool discharges (only if dechlorinated to less than one PPM chlorine);
 - r. 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,
 - s. 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 Town for any discharge to the storm drainage system/MS4.

Section 17 - 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 North Shelby County Fire Department and the authorized enforcement



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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.
- D. 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.
- E. Failure to provide notification of a release as provided above is a violation of this ordinance.

Section 18 - Immediate threats to public health or welfare.

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

Section 19- Notification of violation; enforcement remedies.

- A. Notification of violation.
 - a. Whenever the Official finds that any person is in violation of any provision of this ordinance, or any order issued hereunder, the Official or his agent may serve upon such person written notice of the violation. This notice of violation shall contain.
 - i. The name and address of the alleged violator;
 - ii. 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;
 - iii. A statement specifying the nature of the violation;
 - iv. A description of the remedial and/or restoration measures necessary to restore compliance with this ordinance and a deadline for the completion of such remedial and/or restoration action;
 - v. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
 - vi. A statement that the determination of violation may be appealed to The Citizens' Environmental Advisory Committee ("Committee") by filing a written notice of appeal with the Committee within seven (7) days of service of a notice of violation; and,
 - vii. A statement specifying that, should the violator fail to restore compliance with this ordinance 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.
 - b. Such notice may require without limitation.
 - i. The performance of monitoring, analyses, and reporting;
 - ii. The elimination of illicit connections and/or illicit discharges;
 - iii. That violating discharges, practices, or operations shall cease and desist;
 - iv. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
 - v. Payment of an amount equal to administrative and remediation costs; and/or
 - vi. 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 ordinance, he may issue a compliance order to the violator, directing that, within a specified



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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.

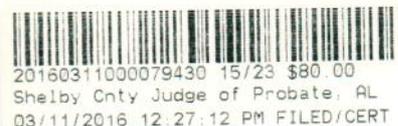
- C. Cease and desist orders. When the Official finds that any person has violated, or continues to violate, this ordinance or any order issued under this ordinance, the Official may issue an order to such person to cease and desist all such violations immediately, and direct such person in violation of this ordinance to:
- a. Comply with this ordinance forthwith; or
 - b. Take such appropriate remedial or preventive action as may be required to address properly a continuing or threatened violation of this ordinance, including halting operations and terminating the discharge.

Section 20 - 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:
- a. Violate any provision of this ordinance ;
 - b. Violate any provision of a permit;
 - c. Fail or refuse to comply with any lawful order issued by the Official which has not been timely appealed to the Committee; and/or,
 - d. Violate any lawful order of the Town.
- B. The Official, with the consent of the Town 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 ordinance or to force compliance with any lawful orders of the Official or the Committee.

Section 21- Variances.

- A. The Citizens' Environmental Advisory Committee("Committee") may recommend variances from the requirements of this ordinance to the Town Council; 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 ordinance would result in unnecessary hardship and the granting of such variance would not result in a condition contrary to the intent of this ordinance .
- 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 Committee and to the person requesting the variance. The Official shall also transmit a copy of the written petition for variance to the Committee along with the Official's written statement.
- D. Once the Official has issued such written statement to the Committee, the petition shall be subject to Committee action. A hearing before the Committee concerning the variance shall take place within fourteen (14) days from the date of receipt of the petition for variance from the Official.



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- E. The recommendation of the Committee will be forwarded to the Town Council for consideration.

Section 23 - Notices.

Whenever the Town is required or permitted to:

- A. Give a notice to any party, such notice must be in writing; or,
- B. 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 Town or is otherwise known to the Town.

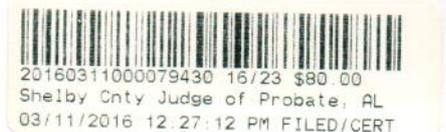
ARTICLE III - ILLICIT DISCHARGE DETECTION AND ELIMINATION (IDDE)

- A. Applicability - This article applies to all premises (whether developed or undeveloped) that have stormwater discharges associated with any and all land uses within the Town of Indian Springs Village, including but not limited to, residential, industrial, commercial, agricultural and construction activity.
- B. Regulatory consistency - This article shall be construed to assure consistency with the requirements of the CWA and the AWPCA and acts amendatory thereof or supplementary thereto or any other applicable regulations.
- C. Ultimate responsibility - The standards set forth herein and promulgated pursuant to this article are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.
 - a. Prohibitions - Prohibition of illicit discharges.
 - i. Prohibition: Unless otherwise excepted herein, no person shall spill, dump, throw, drain, make, cause to be made or continue to be made; allow others under such person's control to spill, dump, throw, drain, make, cause to be made or continue to be made; or otherwise discharge and/or dispose of into the Town's MS4 or watercourses any illicit discharge, including but not limited to pollutants or waters containing any pollutants, other than stormwater.
 - ii. Exceptions: Discharges from the following activities will not be considered a source of pollutants to the MS4 and to waters of the United States when properly managed to ensure that no potential pollutants are present, and therefor shall not be considered illicit discharges unless determined to cause a violation of the provisions of the AWPCA, CWA or this ordinance. These exceptions are a listed in Section 16B, above.

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

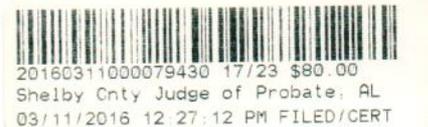
The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of ADEM, provided that the discharger is in full compliance with all requirements of the permit, waiver or order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

- D. Prohibition of illicit connections.
 - a. Prohibition. The construction, use, maintenance or continued existence of illicit connections to the storm drainage system is prohibited.



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- b. Past connections prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
 - c. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4 or allows such an illicit connection to continue.
 - d. Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or a sanitary sewer system upon approval of the Town.
 - e. Any drain or conveyance that has not been documented in plans, maps or the equivalent and which may be connected to the MS4 shall be located by the owner or occupant of that premises upon receipt of written notice of violation from the Official requiring that such locating be completed. Such notice will specify a reasonable time within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm drainage system, sanitary sewer, or other, and that the outfall location or point of connection to the storm drainage system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided in writing to the Official.
- E.** Watercourse protection. No person owning a premises or leasing a premises through which a watercourse passes shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, maintained or kept in any part of a watercourse any trash, debris, excessive vegetation and other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse. A person shall keep and maintain that part of the watercourse on the premises owned or leased by such person free from any such trash, debris, excessive vegetation and other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse. A person shall only be liable under this ordinance for trash, debris, excessive vegetation and other obstacles that originate from the premises owned or leased by such person. In addition, the owner or lessee of a premises shall maintain existing privately owned structures within or adjacent to a watercourse on such premises, so that such structures will not become a hazard to the use, function or physical integrity of the watercourse.
- F.** Industrial or construction activity discharges.
- a. NPDES permit. Any person subject to an industrial or construction activity NPDES permit shall comply with all terms and provisions of such NPDES permit. Any person with a NPDES permit shall provide to the Official a copy of the permit, a copy of the stormwater pollution prevention plan and copies of all monitoring data and reports submitted to ADEM as required by the NPDES permit. Proof of compliance with said permit is required in a form acceptable to the Official prior to the allowing of discharges to the MS4. Compliance with an NPDES permit authorizing the discharge of stormwater associated with industrial activity shall be deemed compliant with the provisions of this ordinance.
 - b. Notice of intent (NOI). The owner and/or operator of a facility, including construction sites, required to have an NPDES permit to discharge stormwater associated with industrial activity shall submit a copy of the NOI to the Official. The copy of the NOI may be delivered to the Official either in person or by mailing to:
 - Notice of Intent to Discharge Stormwater
 - Town Engineer of the Town of Indian Springs Village
 - 2635 Cahaba Valley Road
 - Indian Springs Village, Alabama 35124
 - c. A person commits an offense under this ordinance if such person operates a facility on a premises that is discharging stormwater associated with industrial and/or construction activity without having obtained an NPDES permit and/or submitted a copy of the original NOI to discharge to the Official.

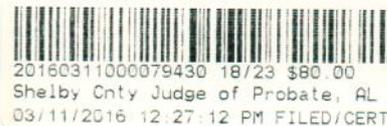


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G. Compliance monitoring.

- a. Right of entry; inspection and sampling. Upon reasonable notice to the premises owner and person in possession thereof, the Official shall be permitted to enter and inspect premises and facilities subject to regulation under this ordinance during normal business hours as often as may be necessary to determine compliance with this ordinance. Identification issued by the Town shall be presented by the Official at the time of entry.
 - i. If security measures are in force on a premises, then the premises owner shall make the necessary arrangements to allow access to representatives of the Official for the purposes of this ordinance. Proof of an illicit discharge or an illicit connection is not required for entry onto a premises.
 - ii. Owners and/or operators of a premises shall allow the authorized enforcement agency ready access to all parts of the premises for the purposes of inspection, sampling, photography, videotaping, testing, and examination; for the copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater; and for the performance of any additional duties as required by state and federal law.
 - iii. The Official shall have the right to set up on any premises such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the premises' surface flow discharges.
 - iv. The Official may require the owner and/or operator of a premises to install monitoring equipment as necessary and to make monitoring data available to the local enforcement authority. This sampling and monitoring equipment shall be maintained at all times in a safe, calibrated and proper operating condition by the owner and/or operator at his/her/its own expense.
 - v. Any temporary or permanent obstruction to safe and easy access to the premises to be inspected and/or sampled shall be promptly removed by the owner of the premises at the written or oral request of the authorized enforcement agency and shall not be replaced. The costs of clearing such access shall be borne by the owner and/or operator of the premises.
 - vi. Unreasonable delays in allowing the Official access to a premises is a violation of this ordinance. A person who is the operator of a premises with a NPDES permit to discharge stormwater commits an offense if such person denies the Official reasonable access to the permitted premises for the purpose of conducting any activity authorized or required by this ordinance.
- b. Search warrants. If the Official has been refused access to any part of a premises from which stormwater is discharged, and the authorized enforcement agency is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.
- c. Emergency discharge. The Official shall have the right to enter upon any and all parts of a premises for the purposes of inspection, sampling, and/or examination in the case of an emergency illicit discharge or a suspected emergency discharge as is necessary in the opinion of the Official to contain an illicit discharge. Reasonable notice of such entry under the circumstances must be given to the owner and occupant of a premises. Entry must be made during normal business hours, if possible. Identification issued by the Town shall be presented at the time of entry by official personnel.

H. Requirement to prevent, control, and reduce stormwater pollutants through the use of best management practices.



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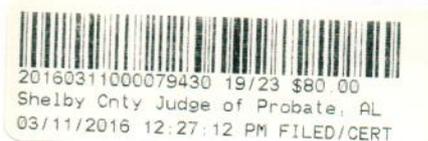
- a. BMPs required. All commercial, industrial and high-risk facilities shall identify, implement and maintain BMPs for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the MS4, waters of the state and/or waters of the United States. Non-compliance with such BMPs will constitute a violation of this ordinance.
 - i. Exceptions:
 - 1. Where BMPs are promulgated by the Town or any federal, state or regional agency for any specific activity, operation, or facility which would otherwise cause the discharge of pollutants to the Town's MS4 or waters of the United States, every person undertaking such activity or operation or owning or operating such facility shall comply with such requirements. Compliance with such BMPs shall be deemed compliant with the provisions of this ordinance.
 - 2. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with construction and/or industrial activity shall be deemed compliant with the provisions of this section.
- b. Responsibility to implement best management practices. Except as set forth herein, any person engaged in activities or operations, or owning facilities or property which will or may result in pollutants entering stormwater, the MS4 or the waters of the United States shall implement BMPs to the extent they are technologically achievable to prevent and reduce such pollutants.

The owner or operator of a commercial, industrial or high risk facility shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4.

I. Notification of accidental discharges and spills.

Notwithstanding other requirements of law, as soon as any premises owner or person responsible for a premises, facility or operation, or responsible for emergency response for a premises, facility or operation has information of any known or suspected release of materials which is resulting or may result in illicit discharges or pollutants discharging into stormwater, the MS4, waters of the state or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of the discharge.

- a. Release of hazardous materials. In the event of a release of hazardous pollutants or materials into the MS4, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services (911) and shall also notify the Official in person or by phone 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 North Shelby County Fire Department and the Official in person or by phone 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. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Official within three (3) business days of date of the phone or in person notice.
- d. If the discharge of prohibited pollutants or materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an

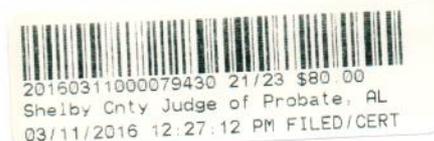


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- on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years from the date of the discharge. Said person shall also take immediate steps to ensure no reoccurrence of the discharge or spill.
- e. Failure to provide notification of a release as provided above is a violation of this ordinance.
- J. Violations, enforcement and penalties.**
- a. **Violations.** It shall be unlawful for any person to violate any provision of or fail to comply with any requirement of this ordinance. Any person who has violated or continues to violate any provision of this ordinance may be subject to the enforcement actions outlined in this ordinance or may be restrained by injunction or otherwise abated in a manner provided by law.
- b. **Warning notice.** When the Official determines that any person has violated or continues to violate any provision of this ordinance or any order issued hereunder, the Official may serve upon that person a written warning notice specifying the particular violation believed to have occurred and requesting that the discharger immediately investigate the matter and seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice does not relieve the alleged violator of liability for any violations occurring before or after receipt of the warning notice. Nothing in this subsection shall limit the authority of the Official to take any action, including emergency action or any other enforcement action, without first issuing a warning notice.
- c. **Notice of violation.**
- i. Whenever the authorized enforcement agency finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, the Official may order compliance by written notice of violation to the responsible person. 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 ordinance 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 Citizens' Environmental Advisory Committee ("Committee") by filing a written notice of appeal with the Committee 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 ordinance 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.)
- ii. 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;

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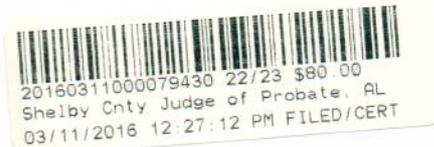
5. Payment of an amount equal to administrative and remediation costs; and/or
6. The implementation of source control or treatment BMPs
- iii. The failure of a person to comply with any lawful notice to abate issued by the Official, which has not been appealed within the time allowed herein, shall be deemed a violation of this ordinance.
- d. Emergency abatement.
 - i. The Official is authorized to require immediate abatement of any violation of this ordinance that constitutes an immediate threat to the health, safety or well-being of the public. When the Official finds that any person has violated, or continues to violate, any provision of this ordinance and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4, waters of the State or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the Official may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:
 1. Immediately comply with all ordinance requirements; and,
 2. Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.
 - ii. Any person notified of an emergency order directed to it under this subsection shall immediately comply and stop or eliminate its illicit discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the Official may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment, including taking any and all measures required to abate and remediate the violation. Any expense related to abatement and remediation undertaken by the Official shall be fully reimbursed to the Town by the property owner and/or responsible party as provided herein. Any relief obtained under this section shall not prevent the Official from seeking other and further relief authorized under this ordinance.
- e. Injunctive relief and/or civil remedies.
 - i. It shall be unlawful for any person to violate any provision or fail to comply with any requirement of this ordinance. If a person has violated or continues to violate the provisions of this ordinance the Official may petition the appropriate court for a preliminary and/or permanent injunction restraining the person from activities which would create violations of this ordinance or compelling the person to perform abatement or remediation of any violation.
 - ii. The Town, with the consent of the Town council, may also initiate civil proceedings in any court of competent jurisdiction seeking monetary damages for any damages caused to the MS4 by any person, and may seek other equitable relief to enforce compliance with the provisions of this ordinance or to force compliance with any lawful orders of the authorized enforcement agency.
 - iii. Any and all costs of such action, including attorneys' fees, trial expenses, court costs and damages to the MS4 shall be paid by the violator as provided herein.
- f. Compensatory actions. In lieu of enforcement proceedings, penalties, and remedies authorized by this ordinance, the Official may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.



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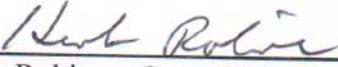
- g. Criminal penalties. In the event any person, corporation or other legal entity has violated or continues to violate this ordinance, the Town will report such violation(s) to the Alabama Department of Environmental Management (ADEM) for legal action under the appropriate federal and State of Alabama statutes. Note that the criminal penalties for violations of these laws can include significant fines and/or imprisonment.
- h. Abatement and restoration of premises by the Town. If a violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within seven (7) days of the decision of the Town Council upholding the decision of the Official, then representatives of the Official may enter upon the premises and are authorized to take any and all measures necessary to abate the violation and/or restore the property. Such entry shall be made during normal business hours, after giving reasonable notice to the owner and person in possession thereof, and after the presentation of proper Town credentials by the Official. It shall be unlawful and a violation of this ordinance for any person, owner, agent or person in possession of any premises to refuse to allow the Official or designated contractor to enter upon the premises for the purposes set forth in this article.
- K. Appeal of notice of violation.**
Notwithstanding the provisions of this ordinance, any person receiving a notice of violation may appeal the determination of the Official to the Town Council. The notice of appeal must be received within seven (7) days following the date of the notice of violation. A hearing on the appeal before the Town Council shall take place within fourteen (14) days from the date of receipt of the notice of appeal. The decision of the Town Council shall be final.
- L. Cost of abatement of the violation.**
Within thirty (30) days after abatement of the violation by the Official and/or its designee, the owner of the property shall be notified by the Official of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within seven (7) days. If the amount due is not paid within thirty (30) days, then the Town shall proceed to collect such amounts as allowed by law. Any person violating any of the provisions of this ordinance shall become liable to the Town by reason of such violation.
- M. Violations; public nuisance.**
It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance. The Official may take all appropriate measures to abate the nuisance and may institute a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance as allowed by law.
- N. Remedies not exclusive; costs recoverable by Town.**
The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

The Town may recover all attorney's fees, trial expenses, court costs and any and all other costs and expenses associated with enforcement of this ordinance, including, but not limited to, sampling and monitoring expenses, ADEM fines, EPA fines and other losses resulting directly or indirectly from a violation of this ordinance.



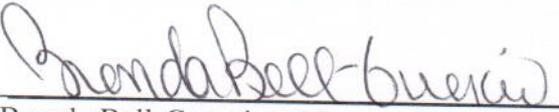
ORDINANCE NO 2016-003 (Cont'd)

ADOPTED: This 1st day of March, 2016.



Herb Robins – Council Chairman Pro Tem

APPROVED: This 1st day of March, 2016.



Brenda Bell-Guercio – Mayor

ATTESTED: This 1st day of March, 2016.



Joan Downs – Town Clerk

