

**MINUTES FROM A REGULAR MEETING OF THE
COUNCIL OF MUSCLE SHOALS, ALABAMA, HELD
January 17, 2006**

The Council of Muscle Shoals, Alabama met at the Muscle Shoals City Hall in said City at 6:30 p.m. on the 17th day of January 2006 being the regularly scheduled time and approved place for said meeting. The meeting was called to order by David Bradford, Mayor of the City. The invocation was given by Paul McDougle. On roll call the following members were found to be present or absent, as indicated:

PRESENT: JOE PAMPINTO, NEAL WILLIS, JERRY KNIGHT GRISSOM
 JAMES HOLLAND, ALLEN NOLES, DAVID H. BRADFORD
ABSENT: NONE

Richard Williams, City Clerk of the City, was present and kept the minutes of the meeting.

David Bradford, Mayor of the City, presided at the meeting and declared that a quorum was present and that the meeting was convened and opened for the purposes of transaction of business.

Upon motion duly made by Council Member Holland, seconded by Council Member Grissom and unanimously adopted, the Council waived the reading of the minutes of the previously held work session and regular meeting of January 3, 2006 and approved the minutes as written.

Mayor Bradford announced that the next item of business was consideration of an ordinance establishing regulations related to illicit discharges and connections to the storm drainage system.

Council Member Grissom thereupon introduced the following ordinance which was presented in the meeting:

ORDINANCE NUMBER 1358-06

**AN ORDINANCE TO ADOPT VARIOUS REGULATIONS PERTAINING TO THE
ILLICIT DISCHARGE AND CONNECTION TO THE STORM DRAINAGE SYSTEM
OF THE CITY OF MUSCLES SHOALS, ALABAMA**

WHEREAS, the City Council of the City of Muscle Shoals, Alabama is desirous of adopting various regulations pertaining to the illicit discharge and connection to the City's Storm Water Discharge System in order to comply with the requirements of the National Pollutant Discharge Elimination System permitting process; and

WHEREAS, the adoption of said regulations is done for the purpose of facilitating the proper inspection and enforcement activities by the City of Muscle Shoals, Alabama and related to said stated purpose;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Muscle Shoals, Alabama, as follows:

SECTION 1. PURPOSE/INTENT

The purpose of the regulations is to provide for the health, safety, and general welfare of the citizens of Muscle Shoals through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (hereafter NPDES) permitting process. The objectives of this ordinance are:

- (1) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by storm water discharges by any user
- (2) To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system
- (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance

SECTION 2. DEFINITIONS

For the purposes of this ordinance, the following shall mean:

Authorized Enforcement Agency: employees or designees of the City Clerk's office.

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

Clean Water Act. The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction Activity. Activities subject to NPDES Construction Permits. Currently these include construction projects resulting in land disturbance of 5 acres or more. Beginning in March 2003, Discharge Elimination System ES Storm Water Phase II permits will be required for construction projects resulting in land disturbance of one (1) acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

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

Illegal Discharge. Any direct or indirect non-storm water discharge to the storm drain system, which is not covered under a proper permit.

Illicit Connections. An illicit connection is defined as either of the following:
Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including, but not limited to, any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or, any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial Activity. Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26(b)(14).

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit. means a permit issued by Environmental Protection Agency (hereafter EPA) (or by a State under authority delegated pursuant to 33 USC § 1342 (b) that authorized the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

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

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

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

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

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

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

Storm Water Pollution Prevention Plan. A document which described the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Storm water, Storm water Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

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

SECTION 3. APPLICABILITY

This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

SECTION 4. RESPONSIBILITY FOR ADMINISTRATION

The City of Muscle Shoals, Alabama shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Mayor to persons or entities acting in the beneficial interest of or in the employ of the City.

SECTION 5. SEVERABILITY

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

SECTION 6. ULTIMATE RESPONSIBILITY

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

SECTION 7. DISCHARGE PROHIBITIONS

Prohibition of Illegal Discharges.

No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

- (1) The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated - typically less than 1.5 PPM chlorine), fire fighting activities, and any other water source not containing Pollutants.

- (2) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
- (3) Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.
- (4) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

Prohibition of Illicit Connections.

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

(2) 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.

(3) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage or any contaminated industrial or commercial waste water to the MS4, or allows such a connection to continue.

SECTION 8. SUSPENSION OF MS4 ACCESS

Suspension due to Illicit Discharges in Emergency Situations

The City of Muscle Shoals, Alabama may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary, including injunctive relief, to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons, and charge the violator and/or owner of the property with all costs associated with the suspension and clean-up.

Suspension due to the Detection of Illicit Discharge

Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the authorized enforcement agency.

SECTION 9. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES

Any person subject to an industrial or construction activity covered by a NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City of Muscle Shoals prior to the allowing of discharges to the MS4. Copies of sample test reports shall be acceptable proof.

SECTION 10. MONITORING OF DISCHARGES

1. Applicability.

This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

2. Access to Facilities.

(1) The City of Muscle Shoals shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.

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

(3) The City of Muscle Shoals shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's storm water discharge.

(4) The City of Muscle Shoals has the right to require the discharger to install monitoring equipment. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.

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

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

(7) If the City of Muscle Shoals has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be 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.

SECTION 11. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICE.

The City of Muscle Shoals will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMP's to prevent the further discharge of pollutants to

the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this section. These BMP's shall be part of a storm water pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

SECTION 12. NOTIFICATION OF SPILLS

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

SECTION 13. ENFORCEMENT

1. Notice of Violation.

Whenever the City of finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- a. The performance of monitoring, analyses, and reporting;
- b. The elimination of illicit connections or discharges;
- c. That violating discharges, practices, or operations shall cease and desist;
- d. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
- e. Notification to ADEM; and
- f. The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such redemption or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

SECTION 14. APPEAL OF NOTICE OF VIOLATION

Any person receiving a Notice of Violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be received within 10 days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

SECTION 15. ENFORCEMENT MEASURES AFTER APPEAL

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 15 days of the decision of the municipal authority upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

SECTION 16. COST OF ABATEMENT OF THE VIOLATION

Any person violating any of the provisions of this Ordinance shall be liable to the City by reason of such violation. The liability shall be paid in not more that twelve (12) equal monthly payments. Interest at the rate of five (5%) per annum shall be assessed on the balance beginning thirty (30) days following the discovery of the violation. Within 15 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs.

SECTION 17. INJUNCTIVE RELIEF.

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

SECTION 18. COMPENSATORY ACTION.

In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

SECTION 19. VIOLATIONS DEEMED A PUBLIC NUISANCE.

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, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

SECTION 20. CRIMINAL PROSECUTION.

Any person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of \$500.00 dollars per violation per day and/or imprisonment for a period of time not to exceed 30 days. The authorized enforcement agency may recover all attorney's fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

SECTION 21. REMEDIES NOT EXCLUSIVE

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

SECTION 22. SEVERABILITY

The provisions and sections of this ordinance shall be deemed to be severable, and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.

SECTION 22. EFFECTIVE DATE

The Ordinance, and its provisions, shall be published and posted as provided by law and thereafter shall become effective on the 1st day of March 2006. All prior ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

Council Member Grissom moved that unanimous consent be given for immediate consideration of and adoption of said Ordinance, which motion was seconded by Council Member Noles and, upon said motion being put to a vote, a roll call was had and the vote was recorded as follows:

AYES: Council Member Pampinto, Council Member Willis, Council Member Grissom, Council Member Holland, Council Member Noles, Mayor Bradford

NAYS: None

Mayor Bradford announced the vote and declared that the motion for unanimous consent for immediate consideration had been approved. Council Member Grissom then moved that the said Ordinance be finally adopted, which motion was seconded by Council Member Noles and, upon said motion being put to a vote, a roll call on final approval was had and the vote recorded as follows:

AYES: Council Member Pampinto, Council Member Willis, Council Member Grissom, Council Member Holland, Council Member Noles, Mayor Bradford

NAYS: None

Mayor Bradford thereupon declared said motion carried and the Ordinance approved.

Mayor Bradford announced that the next item of business was consideration of an ordinance to provide for erosion and sediment control.

Council Member Noles thereupon introduced the following ordinance which was presented in the meeting:

ORDINANCE NUMBER 1359-06

AN ORDINANCE TO PROVIDE FOR EROSION AND SEDIMENT CONTROL IN THE CITY OF MUSCLES SHOALS, ALABAMA

WHEREAS, the City Council of the City of Muscle Shoals is desirous of adopting erosion and sediment control practices in the City of Muscle Shoals, Alabama in order to comply with the requirements of the National Pollutant Discharge Elimination System permitting process; and

WHEREAS, the adoption of said practices is done for the purpose of facilitating the proper design, maintenance, inspection and enforcement activities by the City of Muscle Shoals, Alabama and related to said stated purpose;

NOW, THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Muscle Shoals, Alabama as follows:

Section I. Introduction/Findings/Purpose

During the construction process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches and the dredging of lakes. In addition, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat.

As a result, the purpose of the practices set forth in this Ordinance is to safeguard persons, protect property, and prevent damage to the environment in the City of Muscle Shoals, Alabama. The practices contained herein will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land of one (1) acre or more in the City of Muscle Shoals, Alabama.

Section II. Definitions

Certified Contractor

A person who has received training and is licensed by the Alabama Department of Environmental Management (herein ADEM) to inspect and maintain erosion and sediment control practices.

Clearing

Any activity that removes the vegetative surface cover.

Drainage Way

Any channel that conveys surface runoff throughout the site.

Erosion Control

A measure that prevents erosion.

Erosion and Sediment Control Plan

A set of plans prepared by or under the direction of a licensed professional engineer indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

Grading

Excavation or fill of material, including the resulting conditions thereof.

Perimeter Control

A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

Phasing

Clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

Sediment Control

Measures that prevent eroded sediment from leaving the site.

Site

A parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

Site Development Permit

A permit issued by the municipality for the construction or alteration of ground surface. Permitted BMP include improvements and structures for the control of erosion, runoff, and grading.

Stabilization

The use of practices that prevent exposed soil from eroding.

Start of Construction

The first land-disturbing activity associated with a development, including land preparation such as clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

Watercourse

Any body of water, including, but not limited to lakes, ponds, rivers, streams, and bodies of water delineated by the City of Muscle Shoals.

Waterway

A channel that directs surface runoff to a watercourse or to the public storm drain.

Section III. Permits

- A. No person shall be granted a site development permit for land-disturbing activity that would require the uncovering of one (1) acre or more without the approval by the City of an Erosion and Sediment Control Plan.
- B. No site development permit is required for the following activities:
 - 1) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
 - 2) Existing nursery and agricultural operations conducted as a permitted main or accessory use.
- C. Each application shall bear the name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm and shall be accompanied by a filing fee of \$75.00 for application for a parcel of property up to and including 5 acres and a filing fee of \$150.00 for application for a parcel of property greater than 5 acres.
- D. Each application shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the Erosion and Sediment Control Plan and that a certified contractor shall make an inspection when construction or grading activity takes place.
- E. The applicant will be required to file with City of Muscle Shoals a faithful performance bond, letter of credit, or other improvement security in an amount deemed sufficient by City to cover all costs of improvements, landscaping, maintenance of improvements for such period as specified by the City of Muscle Shoals and engineering and inspection costs to cover the cost of failure or repair of improvements installed on the site.

Section IV. Review and Approval

- 1) The City will review each application for a site development permit to determine its conformance with provisions of this regulation. Within thirty (30) days after receiving an application, the City shall, in writing:

- 1) Approve the permit application.
 - 2) Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or
 - 3) Disapprove the permit application, indicating the reason(s) and procedure for submitting a revised application and/or submission.
- 2) Failure of the City to act on an original or revised application within thirty (30) days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by agreement between the applicant and the City. Pending preparation and approval of a revised plan, development activities shall be allowed to proceed in accordance with conditions established by the City.

Section V. Erosion and Sediment Control Plan

- A) The Erosion and Sediment Control Plan shall include the following:
- 1) A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
 - 2) All erosion and sediment control measures necessary to meet the objectives of this local regulation throughout all phases of construction and after completion of development of the site. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.
 - 3) Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.
 - 4) Provisions for maintenance of control facilities, including easements and estimates of the cost of maintenance.
- B) Modifications to the plan shall be processed and approved or disapproved in the same manner as Section IV of this regulation, may be authorized by the City by written authorization to the permittee, and shall include
- 1) Major amendments of the erosion and sediment control plan submitted to the City.
 - 2) Field modifications of a minor nature.
- C. Residential property less than two (2) acres in area shall not be required to submit an Erosion and Sediment Control Plan. However, all other regulations and requirements herein referred to herein shall be complied with.

Section VI. Design Requirements

1. Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the most recent version of the City's Stormwater Pollution Prevention Plan (hereinafter referred to as SWPPP) and shall be adequate to prevent transportation of sediment from the site to the

satisfaction of the City. Cut and fill slopes shall be no greater than 3:1, except as approved the City to meet other community or environmental objectives.

2. Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when in compliance with all other chapters of this Code. Clearing techniques that retain natural vegetation and drainage patterns, as described in SWPPP, shall be used to the satisfaction of the City.
3. Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.
4. Phasing shall be required on all sites disturbing greater than 30 acres, with the size of each phase to be established at plan review and as approved by the City.
5. Erosion control requirements shall include the following:
 - 1) Soil stabilization shall be completed within five days of inactivity in construction.
 - 2) If seeding or another vegetative erosion control method is used, it shall become established within thirty (30) days or the City may require the site to be reseeded or a nonvegetative option employed.
 - 3) Special techniques that meet the design criteria outlined in SWPPP on steep slopes or in drainage ways shall be used to ensure stabilization.
 - 4) Soil stockpiles must be stabilized or covered at the end of each workday. Silt fence may be used. Silt basins may also be used.
 - 5) The entire site must be stabilized, using a heavy mulch layer or another method that does not require germination to control erosion, at the close of the construction season.
 - 6) Techniques shall be employed to prevent the blowing of dust or sediment from the site caused by construction vehicles or equipment.
 - 7) Techniques that divert upland runoff past disturbed slopes shall be employed.
6. Sediment control requirements shall include:
 - 1) Settling basins, sediment traps, or tanks and perimeter controls.
 - 2) Settling basins that are designed in a manner that allows adaptation to provide long term stormwater management, if required by the City.
 - 3) Protection for adjacent properties by the use of a vegetated buffer strip in combination with perimeter controls. The buffer strip shall be used only if required by the City.
7. Waterway and watercourse protection requirements shall include:
 - 1) A temporary stream crossing installed and approved by U.S. Army Corps of Engineers if a wet watercourse will be crossed regularly during construction.
 - 2) Stabilization of the watercourse channel before, during, and after any in-channel work.
 - 3) All on-site stormwater conveyance channels designed according to the criteria outlined in SWPPP.
 - 4) Stabilization adequate to prevent erosion located at the outlets of all pipes and paved channels.

8. Construction site access requirements shall include:
 - 1) a temporary construction access road provided at all sites.
 - 2) other measures required by the City in order to ensure that sediment is not tracked onto public streets by construction vehicles or washed into storm drains.

Section VII. Inspection

- 1) The City or designated agent shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the Erosion and Sediment Control Plan as approved. Plans for grading, stripping, excavating, and filling work bearing the approval of the City shall be maintained at the site during the progress of the work. To obtain inspections, the permittee shall notify the City at least two (2) working days before the following:
 - 1) Start of construction
 - 2) Installation of sediment and erosion measures
 - 3) Completion of site clearing
 - 4) Completion of rough grading
 - 5) Completion of final grading
 - 6) Close of the construction season
 - 7) Completion of final landscaping
- 2) The permittee or his/her agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved Erosion and Sediment Control Plan(s). The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be documented in written form and submitted to the City at the time interval specified in the approved permit.
- 3) The City or its designated agent shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports.

Section VIII. Enforcement

- 1 Stop-Work Order; Revocation of Permit

In the event that any person holding a site development permit pursuant to this ordinance violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the City may suspend or revoke the site development permit.

2. Violation and Penalties

No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this ordinance. Any person violating any of the provisions of this ordinance shall be given a written notice to correct said violations set forth in said notice and shall do so within 7 days of said notice. Upon failure to do so, the City shall notify ADEM of said violations.

Section IX. Severability

The provisions and sections of this ordinance shall be deemed to be severable, and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.

Section X. Effective Date

The Ordinance, and its provisions, shall be published and posted as provided by law and thereafter shall become effective on the 1st day of March 2006.

Council Member Noles moved that unanimous consent be given for immediate consideration of and adoption of said Ordinance, which motion was seconded by Council Member Willis and, upon said motion being put to a vote, a roll call was had and the vote was recorded as follows:

AYES: Council Member Pampinto, Council Member Willis, Council Member Grissom,
Council Member Holland, Council Member Noles, Mayor Bradford

NAYS: None

Mayor Bradford announced the vote and declared that the motion for unanimous consent for immediate consideration had been approved. Council Member Noles then moved that the said Ordinance be finally adopted, which motion was seconded by Council Member Willis and, upon said motion being put to a vote, a roll call on final approval was had and the vote recorded as follows:

AYES: Council Member Pampinto, Council Member Willis, Council Member Grissom,
Council Member Holland, Council Member Noles, Mayor Bradford

NAYS: None

Mayor Bradford thereupon declared said motion carried and the Ordinance approved.

Mayor Bradford announced that the next item of business was consideration of an ordinance to establish design and maintenance criteria for best management practices of the storm sewer system.

Council Member Willis thereupon introduced the following ordinance which was presented in the meeting:

ORDINANCE NUMBER 1360-06

**AN ORDINANCE FOR DESIGN AND MAINTENANCE CRITERIA FOR
BEST MANAGEMENT PRACTICES OF STORM SEWER SYSTEMS
OF THE CITY OF MUSCLE SHOALS, ALABAMA**

WHEREAS, the City Council of the City of Muscle Shoals, Alabama is desirous of adopting design and maintenance criteria for Best Management Practices for the operation of the storm sewer systems of the City of Muscle Shoals, Alabama in order to comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) permitting process; and

WHEREAS, the adoption of said design and maintenance criteria is done for the purpose of facilitating proper design, maintenance, inspection and enforcement activities by the City of Muscle Shoals, Alabama and related to the stated purpose;

NOW, THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Muscle Shoals, Alabama as follows:

Section I. Definitions

- _____ Best Management Practices
_____ Structural device, measure, facility, or activity that helps to achieve stormwater management control objectives at a designated site.
- _____ Plan
_____ A document approved at the site design phase that outlines the measures and practices used to control stormwater runoff at a site. The plan shall be prepared by a professional engineer. The subdivision regulations and the building code shall be amended to include these regulations.

Section II. Design

- B. All stormwater Best Management Practices (herein BMP) criteria shall be designed in a manner to minimize the need for maintenance and reduce the chances of failure. Design guidelines are outlined in the most recent version of the subdivision regulations of the City of Muscle Shoals and/or in the Storm water Pollution Protection Plan (referred to as SWPPP) as adopted by the City of Muscle Shoals, Alabama.
- C. Stormwater easements and covenants shall be provided by the property owner for access for facility inspections and maintenance. Easements and covenants shall be identified with City of Muscle Shoals, Alabama prior to the issuance of a permit.
- D. Final design shall be approved by the City Engineer or building officials of the City.
- D. Property Owner/Developer will acquire a NPDES permit from Alabama Department of Environmental Management (herein ADEM) and present a copy to the City.
- E. A permit will be issued by the City prior to construction start-up. This permit acknowledges receipt of proper BMP and ADEM permit.

Section III. Routine Maintenance

- A. All stormwater BMP's shall be maintained according to the measures outlined in the subdivision regulations and as approved in the permit.
- B. The person(s) or organization(s) responsible for maintenance shall be designated in the plan. Options include:

- 1) Property owner
 - 2) Homeowner's association, provided that provisions for financing necessary maintenance are included in deed restrictions or other contractual agreements
 - 3) Private contractor under contract with the Owner.
- C. Maintenance agreements shall specify responsibilities for financing maintenance.

Section IV. Non-routine Maintenance

- _____ Non-routine maintenance includes maintenance activities that are expensive but infrequent, such as pond dredging or major repairs to stormwater structures.
- A. Non-routine maintenance shall be performed on an as-needed basis based on information gathered during regular inspections.
 - B. If non-routine maintenance activities are not completed in a timely manner or as specified in the approved plan, the City of Muscle Shoals may fine the Owner an appropriate amount to cover the cost of the city's providing maintenance.

Section V. Inspections

- A. The person(s) or organization(s) responsible for maintenance shall inspect stormwater BMP's on a regular basis as outlined in the plan.
- B. Authorized representatives of the City of Muscle Shoals may enter at reasonable times to conduct on-site inspections or routine maintenance.
- C. For BMP's maintained by the property owner or homeowner's association, inspection and maintenance reports shall be filed with the City of Muscle Shoals, as provided for in the plan.
- D. Authorized representatives of the City of Muscle Shoals, may conduct inspections to confirm the information in the reports filed under Section 5c.

Section VI. Severability

The provisions and sections of this ordinance shall be deemed to be severable, and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.

Section VII. Effective Date

The Ordinance, and its provisions, shall be published and posted as provided for by law and thereafter shall become effective on the 1st day of March 2006.

_____ Council Member Willis moved that unanimous consent be given for immediate consideration of and adoption of said Ordinance, which motion was seconded by Council Member Pampinto and, upon said motion being put to a vote, a roll call was had and the vote was recorded as follows:

AYES: Council Member Pampinto, Council Member Willis, Council Member Grissom,
Council Member Holland, Council Member Noles, Mayor Bradford
NAYS: None

Mayor Bradford announced the vote and declared that the motion for unanimous consent for immediate consideration had been approved. Council Member Willis then moved that the said Ordinance be finally adopted, which motion was seconded by Council Member Pampinto and, upon said motion being put to a vote, a roll call on final approval was had and the vote recorded as follows:

AYES: Council Member Pampinto, Council Member Willis, Council Member Grissom,
Council Member Holland, Council Member Noles, Mayor Bradford

NAYS: None

Mayor Bradford thereupon declared said motion carried and the Ordinance approved.

Mayor Bradford announced that the next item of business was consideration of a resolution committing local funds to the grant proposal submitted to the Economic Development Administration for infrastructure improvements to the Northwest Alabama Regional Airport Industrial Park.

Council Member Pampinto introduced the following resolution which was presented in the meeting and moved for its adoption:

STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NUMBER 2190 - 06

WHEREAS, the City of Muscle Shoals is applying for Economic Development Administration funds for the purpose of providing needed infrastructure improvements to the Northwest Alabama Regional Airport Industrial Park,

NOW, THEREFORE, BE IT RESOLVED that Local Matching Funds will be provided by the City of Muscle Shoals.

Council Member Holland seconded the motion and upon said motion being put to a vote, all voted "AYE" and "NAYS" were none.

Mayor Bradford announced that the Resolution had been approved.

There being no further business to come before the meeting, upon the motion duly made and approved the meeting was adjourned.

CITY OF MUSCLE SHOALS, ALABAMA
a Municipal Corporation

MAYOR

COUNCIL MEMBER - PLACE ONE

COUNCIL MEMBER - PLACE TWO

COUNCIL MEMBER - PLACE THREE

COUNCIL MEMBER - PLACE FOUR

COUNCIL MEMBER - PLACE FIVE

ATTEST:

CITY CLERK