



OPELIKA CITY COUNCIL
“ REGULAR MEETING AGENDA “
204 South 7th Street
April 4, 2017
TIME: 7:00 PM

1. CALL TO ORDER
2. ROLL CALL
 1. Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon, Eddie Smith
3. INVOCATION
4. PLEDGE OF ALLEGIANCE
 1. Barrett Whitman and Mikayla Jackson seniors at OHS.
5. READING OF MINUTES
 1. Minutes from the 3-21-17 City Council Meeting.
6. UNFINISHED BUSINESS
7. REMARKS BY THE MAYOR
 1. Proclamation for National Service Recognition Day..
 2. Proclamation for Alabama Organ Donate Life Month.
 3. Employee Service Awards.
8. CITIZEN COMMUNICATIONS (Limit comments to five minutes or less)
9. REPORT OF DISBURSEMENTS
10. COMMITTEE REPORTS
11. GENERAL BUSINESS
 1. Request by Main Street, Temporary Street Closure, Museum EA Event.
 2. Request by KOB, Temporary One Way Road for Garden in the Park.
 3. Request a 5K Run/Walk Called "I Run Opelika" on Aug. 26Th.
 4. Request by Momma Goldberg's Deli for an On-Premise Beer License.
12. AWARDING OF BIDS
 1. Re-Roofing the Lewis Cooper Jr Memorial Library-PW
 2. Re-Roofing the Covington Recreation Center-PW
13. RESOLUTIONS
 1. Expense Reports from Various Departments.
 2. Designate City Personal Property Surplus and Authorize Disposal
 3. Purchase Swimming Starting Blocks-Sole Source - P&R

4. Resolution Approving Employment Contract with Joel D. Motley
 5. Special Appropriation to KOB - 2017 Garden in the Park.
 6. Special Appropriation for Boy Scouts - Distinguished Citizen Award.
14. ORDINANCES
1. Amend City Code, Chapter 7 Article III, Erosion & Sediment Control - 2Nd Reading.
 2. Amend City Code, Chapter 7 Article IV, Post Construction Stormwater Mgt. - 2Nd Reading.
15. APPOINTMENTS
1. Reappoint Kevin Royal to the Board of Education. The new term expires 4-01-22.
 2. Appoint Chuck Beams to the Board of Education. The existing term expires 4-01-19.
16. ADJOURN



City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

CM MINUTES (ID # 2185)

Meeting: 04/04/17 07:00 PM
Department: City Clerk
Category: CM Minutes
Prepared By: Robert Shuman
Initiator: Robert Shuman
Sponsors:

DOC ID: 2185

Minutes from the 3-21-17 City Council Meeting.



OPELIKA CITY COUNCIL “ REGULAR MEETING MINUTES “

204 South 7th Street

March 21, 2017

TIME: 7:00 PM

1. Call to Order

President Smith was absent from this council meeting due to required surgery. President pro-tem Jones presided over this council meeting and called the council meeting to order at 7:00 pm.

2. Roll Call

President pro-tem Jones asked Mr. Shuman to call the roll. All council members were present except for President Smith.

1. Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon, Eddie Smith

3. Invocation

Dr. Lewis Smith provided the invocation.

4. Pledge of Allegiance

La'Dajah Huguley and John Knitter lead the Pledge of Allegiance.

1. La'Dajah Huguley and John Knitter from the Opelika Middle School.

5. Reading of Minutes

1. Minutes for the 3-07-17 City Council Meeting.

RESULT: APPROVED [UNANIMOUS]

MOVER: Dozier Smith T, Council Member

SECONDER: David Canon, Council Member

AYES: Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon

ABSENT: Eddie Smith

6. Unfinished Business

7. Remarks By the Mayor

Mayor Fuller stated that Opelika's recycling & shredding day will be on April 8th from 8-11am at the Jeter recycling center. Mayor Fuller reminded everyone present that curb-side recycling is now available and if you sign up now you will get two months free.

1. Building Permit Reports - February, 2017

Mayor Fuller called on Joey Motley, City Administrator, to present a summary of the February 2017 Building Permit report.

2. Recognition of Gerry Wiggins in OES with a performance award.

Mayor Fuller presented a performance award to Gerry Wiggins of the OES department. Terry White, OES Director, assisted with the presentation.

8. Citizen Communications

(Limit comments to five minutes or less)

No one came forward to speak.

9. Report of Disbursements

10. Committee Reports
11. General Business
 1. Request March for Babies Walk on May 13Th.
RESULT: APPROVED [UNANIMOUS]
MOVER: David Canon, Council Member
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon
ABSENT: Eddie Smith
 2. Public Hearing. Fix Assessment for Removal of Building - 506 S. 4Th Street
 President pro-tem Jones open this public hearing asking if there was anyone present that would like to speak for or against this assessment of demolition cost. No one came forward to speak. President pro-tem Jones closed this public hearing.
 3. Public Hearing. Fix Assessment for Removal of Building - 1405 West Street
 President pro-tem Jones open this public hearing asking if there was anyone present that would like to speak for or against this assessment of demolition cost. Mary Bynum stated this was her Mom's home and asked how much was the cost of demolition. Guy Gunter, City Attorney, explained the cost to demolish said property was \$4,831.21 and explained the payment options and procedures. Mr. Gunter also stated if the payment(s) were not made when due, that the cost would be added to the next property tax bill by the Lee County Revenue Commissioner. President pro-tem Jones stated to Ms. Bynum, if you have additional questions we can talk to you after the council meeting ends. President pro-tem Jones closed this public hearing.
12. Awarding of Bids
 1. Bids 049-17 Meter Testing Equipment - OPS
RESULT: APPROVED [UNANIMOUS]
MOVER: Dozier Smith T, Council Member
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon
ABSENT: Eddie Smith
 2. Bids 050-17 Installation of Conduit Systems by Directional Boring and Plowing Methods - OPS
RESULT: APPROVED [UNANIMOUS]
MOVER: David Canon, Council Member
SECONDER: Dozier Smith T, Council Member
AYES: Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon
ABSENT: Eddie Smith
 3. Bids 051-17 Installation of Conduit Systems by Open Trench Excavation Methods - OPS
RESULT: APPROVED [UNANIMOUS]
MOVER: Dozier Smith T, Council Member
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon
ABSENT: Eddie Smith
 4. Bids 052-17 Viper-ST Solid Dielectric Recloser & SEL-651R2 Control-OPS

RESULT: APPROVED [UNANIMOUS]
MOVER: David Canon, Council Member
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon
ABSENT: Eddie Smith

13. Resolutions

1. Resolution 053-17 Expense Reports from Various Departments.

RESULT: APPROVED [UNANIMOUS]
MOVER: Tiffany Gibson-Pitts, Council Member
SECONDER: Dozier Smith T, Council Member
AYES: Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon
ABSENT: Eddie Smith

2. Resolution 054-17 Refund Request by HND&T for Overpayment of Occupational Fees.

RESULT: APPROVED [UNANIMOUS]
MOVER: Dozier Smith T, Council Member
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon
ABSENT: Eddie Smith

3. Resolution 055-17 Refund Request West Fraser, Inc. Overpayment Occupational Fee.

RESULT: APPROVED [UNANIMOUS]
MOVER: David Canon, Council Member
SECONDER: Dozier Smith T, Council Member
AYES: Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon
ABSENT: Eddie Smith

4. Resolution 056-17 Resolution. Fix Assessment for Removal of Building - 506 S. 4Th Street

Mr. Canon made the motion to set the interest rate at 2.75% and was seconded by Mr. Smith T.
 The following vote was recorded:

Aye Pitts, Smith T, Canon, Jones.

Nay None

RESULT: APPROVED [UNANIMOUS]
MOVER: Dozier Smith T, Council Member
SECONDER: David Canon, Council Member
AYES: Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon
ABSENT: Eddie Smith

5. Resolution 057-17 Resolution. Fix Assessment for Removal of Building - 1405 West Street

Mr. Smith T made the motion to set the interest rate at 2.75% and was seconded by Mr. Canon.
 The following vote was recorded:

Aye Pitts, Smith T, Canon, Jones.

Nay None

- RESULT:** **APPROVED [UNANIMOUS]**
MOVER: David Canon, Council Member
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon
ABSENT: Eddie Smith
6. Resolution 058-17 Special Use Permit for AT&T at 1051 Douglas Street.
RESULT: **APPROVED [UNANIMOUS]**
MOVER: Dozier Smith T, Council Member
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon
ABSENT: Eddie Smith
7. Resolution 059-17 Vacate Property Shannon Court, Amend Resolution No.008-14
RESULT: **APPROVED [UNANIMOUS]**
MOVER: David Canon, Council Member
SECONDER: Dozier Smith T, Council Member
AYES: Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon
ABSENT: Eddie Smith
8. Resolution 060-17 Contract with Decisions Inc. - Fire Lieutenant & Apparatus Operator Validated Selection Procedures.
RESULT: **APPROVED [UNANIMOUS]**
MOVER: Dozier Smith T, Council Member
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon
ABSENT: Eddie Smith
9. Resolution 061-17 Special Appropriation, 2017 Unity Stampede Walk/Run.
RESULT: **APPROVED [UNANIMOUS]**
MOVER: Tiffany Gibson-Pitts, Council Member
SECONDER: Dozier Smith T, Council Member
AYES: Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon
ABSENT: Eddie Smith
10. Resolution 062-17 Resolution Opposing SB31 and HB58
RESULT: **APPROVED [UNANIMOUS]**
MOVER: Dozier Smith T, Council Member
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon
ABSENT: Eddie Smith
11. Resolution 063-17 Contract for Engineering Services for the New Central Fire Station - P/W

RESULT: APPROVED [UNANIMOUS]
MOVER: Tiffany Gibson-Pitts, Council Member
SECONDER: David Canon, Council Member
AYES: Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon
ABSENT: Eddie Smith

12. Resolution 064-17 ROW Acquisition for Frederick Road Extension

RESULT: APPROVED [UNANIMOUS]
MOVER: Tiffany Gibson-Pitts, Council Member
SECONDER: Dozier Smith T, Council Member
AYES: Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon
ABSENT: Eddie Smith

13. Resolution 065-17 Expense Report, David Canon.

RESULT: APPROVED [UNANIMOUS]
MOVER: Dozier Smith T, Council Member
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon
ABSENT: Eddie Smith

14. Ordinances

1. Ordinance Amend Zoning Ord & Map: 1310 1St Avenue, 19,000 Sf Lot, from M-1 to R-4 - Tabled.

The property owner has withdrawn his zoning request.

Mr. Canon made the motion to remove this ordinance from the Table and was seconded by Mr. Smith T. The following vote was recorded:

Aye Pitts, Smith T, Canon, Jones.

Nay None.

RESULT: REMOVED FROM AGENDA [UNANIMOUS]
MOVER: Dozier Smith T, Council Member
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon
ABSENT: Eddie Smith

2. Ordinance 106-17-ORD Change the July 4Th Council Meeting Date to July 5Th. - 2Nd Reading.

RESULT: SECOND READING AND APPROVED [UNANIMOUS]
MOVER: Tiffany Gibson-Pitts, Council Member
SECONDER: Dozier Smith T, Council Member
AYES: Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon
ABSENT: Eddie Smith

3. Ordinance 107-17-ORD Amend City Code, Sec 19-495, Discharge of Weapons - 2Nd Reading.

RESULT: SECOND READING AND APPROVED [UNANIMOUS]

MOVER: Dozier Smith T, Council Member

SECONDER: David Canon, Council Member

AYES: Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon

ABSENT: Eddie Smith

4. Ordinance Amend City Code, Chapter 7 Article III, Erosion & Sediment Control - 1St Reading.

This ordinance was introduced by Mr. Canon.

RESULT: FIRST READING INTRODUCED

5. Ordinance Amend City Code, Chapter 7 Article IV, Post Construction Stormwater Mgt. - 1St Reading.

This ordinance was introduced by Mr. Smith T.

RESULT: FIRST READING INTRODUCED

15. Appointments

None.

16. Adjourn

The City Council meeting minutes of March 21st, 2017 are hereby adopted and approved this the 4th day of April, 2017.

/S/

President pro-tem of the City Council

City of Opelika, Alabama

ATTEST:

/s/

R. G. "Bob" Shuman

City Clerk - Treasurer

1. Motion to Adjourn.

This council meeting ended at 7:40 pm.

RESULT: APPROVED [UNANIMOUS]

MOVER: Tiffany Gibson-Pitts, Council Member

SECONDER: Dozier Smith T, Council Member

AYES: Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon

ABSENT: Eddie Smith



City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

Meeting: 04/04/17 07:00 PM
Department: City Clerk
Category: Request / Temp Street Closure
Prepared By: Robert Shuman
Initiator: Robert Shuman
Sponsors:

GENERAL BUSINESS (ID # 2182)

DOC ID: 2182

Request by Main Street, Temporary Street Closure, Museum EA Event.

Shuman, Robert

Subject: Request for street blocking / Museum of East. Ala. on 4-25-17

From: Carla Nelson [<mailto:director@opelikamainstreet.org>]

Sent: Wednesday, March 22, 2017 2:10 PM

To: Shuman, Robert <RShuman@opelika-al.gov>

Subject: Request for street blocking

Good afternoon,

The Museum of East Alabama has requested to block a portion of 9th street in front of the Museum between South Railroad Avenue and Avenue B for their "Taste of the Town" event on Tuesday, April 25th from 4-8 p.m.

Thank you,

Carla Nelson, Director
Opelika Main Street, Inc.
Office: 334.745.0466
Cell: 334.740.0221
PO Box 2464 - Opelika, AL 36803
Sign up for emails! www.OpelikaMainStreet.org
Like us! www.Facebook.com/OpelikaMainStreet

Attachment: CM 4-04-17, request for street blocking Museum of East. Ala. on 4-25-17 (2182 : Request by Main Street, Temporary Street



City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

Meeting: 04/04/17 07:00 PM
Department: City Clerk
Category: Request / Temp Street Closure
Prepared By: Robert Shuman
Initiator: Robert Shuman
Sponsors:

GENERAL BUSINESS (ID # 2186)

DOC ID: 2186

Request by KOB, Temporary One Way Road for Garden in the Park.

Shuman, Robert

From: Tipi Miller <tipi@keepopelikabeautiful.com>
Sent: Monday, March 27, 2017 2:12 PM
To: Shuman, Robert
Subject: Park Road

Bob,

I would like to request Park Road be a one-way street for Garden in the Park. The one-way would only be effective on Saturday, May 6th from 7am to 3pm. I would like to propose the street be a one-way from Denson Drive towards the entrance to Miles Thomas Field (across from the Salem-Shotwell Covered Bridge). This will allow Miles Thomas Field to be used as a parking lot for the event.

Thank you for your help,

Tipi

Tipi Miller
Director
Keep Opelika Beautiful
Opelika Recycle & Shred Day- April 8
Garden in the Park- May 6

Attachment: CM 4-04-17, request by KOB, temporary one way road, Garden in the Park (2186 : Request by KOB, Temporary One Way Road for



City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

GENERAL BUSINESS (ID # 2187)

Meeting: 04/04/17 07:00 PM
Department: City Clerk
Category: Request / Temp Street Closure
Prepared By: Robert Shuman
Initiator: Robert Shuman
Sponsors:

DOC ID: 2187

Request a 5K Run/Walk Called "I Run Opelika" on Aug. 26Th.

Shuman, Robert

From: Andre Marcus <smoothsax04@aol.com>
Sent: Thursday, March 23, 2017 4:39 PM
To: Shuman, Robert
Subject: Permit for local race
Attachments: iRunOpelikaMap.pdf; Flyer.docx; Partner Forms.pdf

Mr. Shuman,

My name is André Marcus, and I am interested in hosting a 5K run and health expo in Opelika. I was instructed to contact you in order to get approval. The event is called "I RUN OPELIKA Health Expo & 5K Run/Walk". The event has three main purposes.

- 1.) To help improve the health of our citizens with education, material, and a community run/walk.
- 2.) To showcase our beautiful city. This year we would like to focus on the downtown area, and next year add a longer distance to cover the new sidewalks and activities included in the Carver/Jeter project.
- 3.) To support a local non-profit organization that helps the community. This year that organization is Cornerstone of EAMC.

The event will be hosted by my company, SmoothSax Music, with all of the proceeds going to Cornerstone of EAMC. The date of the event is August 26th, and will last from 0630am until approximately 1100am. We are anticipating between 50 -75 participants at this time. We would like to close off the street in front of the courthouse, and also utilize the courthouse square. Attached I have included the proposed route map, and information pertaining to the event. We are not publicizing the event, or accepting registrations until after we have the city's approval. Please let me know if I need to include any additional information, or make any changes. After approval from the city, we plan to solicit the support of the downtown merchants, other local businesses, as well as the city. Thanks for your assistance.

--

André L. Marcus; A+, Network+, MCP, MCSA

SmoothSax Music

Microsoft
CERTIFIED
 Solutions Associate
 Office 365

Attachment: CM 4-04-17, Request 5k Run-Walk, I Run Opelika (2187 : Request a 5K Run/Walk Called "I Run Opelika" on Aug. 26Th.)

Distance: 3.19 mi
Elevation Gain: 103 ft
Elevation Max: 854 ft

0.20 mi Head northeast on S Railroad Ave toward S 9th St

0.28 mi	Head north on S Railroad Ave toward S 8th St
0.33 mi	Head northeast on S Railroad Ave toward S 8th St
0.35 mi	Head northeast on S Railroad Ave toward S 8th St
0.38 mi	Head northeast on S Railroad Ave toward S 7th St
0.42 mi	Head northeast on S Railroad Ave toward S 7th St
0.47 mi	Head northeast on S Railroad Ave toward N 5th St
0.63 mi	Head northeast on S Railroad Ave toward N 5th St
0.64 mi	Head northwest on N 5th St toward N Railroad Ave
0.72 mi	Turn right onto 1st Ave
0.72 mi	Head northeast on 1st Ave toward N 4th St
0.81 mi	Head southeast on N 4th St toward N Railroad Ave
0.83 mi	Head south on N Railroad Ave toward N 5th St
0.91 mi	Head southwest on N Railroad Ave toward N 5th St
0.92 mi	Turn left onto N 5th St
0.95 mi	Head southwest on S Railroad Ave toward N 7th St
1.04 mi	Direct/offroad route segment
1.04 mi	Head southwest on Ave A toward S 7th St
1.13 mi	Head southwest on Ave A toward S 7th St
1.13 mi	Turn left onto S 7th St
1.48 mi	Head northeast on Avenue E toward S 6th St
1.53 mi	Direct/offroad route segment
1.53 mi	Direct/offroad route segment
1.53 mi	Direct/offroad route segment
1.53 mi	Direct/offroad route segment
1.53 mi	Direct/offroad route segment
1.53 mi	Head southwest on Avenue E toward S 7th St
1.67 mi	Continue onto Tolbert Blvd
1.68 mi	Head southwest on Tolbert Blvd toward Geneva St Destination will be on the right
1.81 mi	Head north on Geneva St toward Ave D
1.88 mi	Head northwest on S 9th St toward Ave C
1.92 mi	Head northwest on S 9th St toward Ave B
2.01 mi	Turn right onto Ave B

2.01 mi	Head northeast on Ave B toward S 8th St Destination will be on the left
2.18 mi	Head northeast on Ave B toward S 7th St
2.18 mi	Turn left onto S 7th St
2.27 mi	Turn right onto Ave A
2.36 mi	Direct/offroad route segment
2.36 mi	Head southwest on S Railroad Ave toward N 7th St
2.44 mi	Head southwest on S Railroad Ave toward N 7th St Destination will be on the right
2.53 mi	Head southwest on S Railroad Ave toward S 8th St Destination will be on the right
2.59 mi	Head southwest on S Railroad Ave toward S 9th St
2.63 mi	Head southwest on S Railroad Ave
2.71 mi	Head southeast toward Ave A
2.78 mi	Head southeast toward Ave A
2.78 mi	Turn left onto Ave A
2.87 mi	Turn right onto S 9th St
2.91 mi	Destination



City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

Meeting: 04/04/17 07:00 PM
Department: Purchasing and Revenue
Category: Business & Alcohol License
Prepared By: Martha Wright

Initiator: Lillie Finley

Sponsors:

GENERAL BUSINESS (ID # 2192)

DOC ID: 2192

Request by Momma Goldberg's Deli for an On-Premise Beer License.



City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

BIDS 066-17

Meeting: 04/04/17 07:00 PM
Department: Purchasing and Revenue
Category: Bid
Prepared By: Angela Norrell
Initiator: Lillie Finley
Sponsors:
DOC ID: 2190

Re-Roofing the Lewis Cooper Jr Memorial Library-PW

RESOLUTION NO. _____

WHEREAS, the Purchasing Department opened sealed bids for a contract for Re-Roofing the Lewis Cooper, Jr. Memorial Library for the Public Works Department; and

WHEREAS, Standard Roofing of Montgomery, Inc. was the lowest bidder meeting specifications; and

WHEREAS, this is a budgeted contract;

NOW, THEREFORE, BE IT RESOLVED by the City of Opelika, Alabama as follows:

1. That the bid be awarded to Standard Roofing of Montgomery, Inc. on their low bid meeting specifications.
2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to Standard Roofing of Montgomery, Inc. in the amount of \$157,849.00.
3. That the Controller be authorized to adjust the budget as necessary for this purchase.
4. That the Mayor is hereby authorized to sign all documents pertaining to this Contract.

APPROVED AND ADOPTED this the _____ day of _____, 2017.

Patricia A. Jones, President Pro-tem
City of Opelika, Alabama

ATTEST:

Robert G. Shuman
City Clerk - Treasurer

FACT SHEET

SUBJECT: Sealed Bids – Bid #17014 – We are asking the Council to approve a contract for Re-Roofing the Lewis Cooper, Jr. Memorial Library

FACTS:

- Bid opening date – 3/13/17
- User Department – Public Works
- 8 bids were received
- Budgeted contract
- Bid tabulation sheet attached

RECOMMENDATION:

- **Recommend award contract to Standard Roofing of Montgomery, Inc. on their low bid meeting specifications in the total amount of \$157,849.00.**

[illegible]



City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

BIDS 067-17

Meeting: 04/04/17 07:00 PM
Department: Purchasing and Revenue
Category: Bid
Prepared By: Angela Norrell
Initiator: Lillie Finley
Sponsors:
DOC ID: 2191

Re-Roofing the Covington Recreation Center-PW

RESOLUTION NO. _____

WHEREAS, the Purchasing Department opened sealed bids for a contract for Re-Roofing the Covington Recreation Center for the Public Works Department; and

WHEREAS, Central Alabama Metal & Roofing Co., Inc. had the lowest base bid meeting specifications; and

WHEREAS, this is a budgeted contract;

NOW, THEREFORE, BE IT RESOLVED by the City of Opelika, Alabama as follows:

1. That the base bid, without the alternate bid, be awarded to Central Alabama Metal & Roofing Co., Inc. on their low bid meeting specifications.
2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to Central Alabama Metal & Roofing Co., Inc. in the amount of \$150,700.00.
3. That the Controller be authorized to adjust the budget as necessary for this purchase.
4. That the Mayor is hereby authorized to sign all documents pertaining to this Contract.

APPROVED AND ADOPTED this the _____ day of _____, 2017.

Patricia A. Jones, President Pro-tem
City of Opelika, Alabama

ATTEST:

Robert G. Shuman
City Clerk - Treasurer

FACT SHEET

SUBJECT: Sealed Bids – Bid #17015 – We are asking the Council to approve a contract for Re-Roofing the Covington Recreation Center

FACTS:

- Bid opening date – 3/13/17
- User Department – Public Works
- 8 bids were received
- Budgeted contract
- Bid tabulation sheet attached

RECOMMENDATION:

- **Recommend award contract without the alternate bid to Central Alabama Metal & Roofing Co., Inc. on their base bid meeting specifications in the total amount of \$150,700.00.**

[illegible]

RESOLUTION NO. 068-17

Expense Reports from Various Departments.**RESOLUTION NO. _____**

BE IT RESOLVED, by the City Council of the City of Opelika, Alabama, as follows:

-) That the following employees were required by the City of Opelika to travel on City business and/or attend a training session, meeting or conference.

Employee	Department	\$ Amount
-----	-----	-----
Tyler Chaffee	Economic Development	269.13
Leigh Krehling	Community Relations	75.44
Patricia Jones	City Council	86.03
Lisa Gallagher	P/R	298.52
Cindy Boyd	Accounting	111.50

-) That attached is an expense report(s) prepared, dated and signed by the City employee or official covering the various expenses incurred on said trip and reviewed/approved by the City's accounting department and City official(s).
- 3) That the Opelika City Council hereby approves the attached expense reports for reimbursement to said City employee or official.
- 4) That the Mayor and/or appropriate City official is hereby directed and authorized to take the necessary steps so a check can be prepared covering the attached expense reports.
- 5) That the City Treasurer is authorized to sign said check so it can be delivered to the appropriate City employee or official.

ADOPTED and APPROVED this the ____ day of _____, 2017.

Patricia A. Jones

President pro-tem City Council

City of Opelika, Alabama

ATTEST:

Robert G. Shuman, CMC

City Clerk - City Treasurer

Name

Department

Expense Report

Tyler Chaffee

ECONOMIC DEVELOPMENT

Period Ending

ITEMIZE ALL REIMBURSABLE EXPENSE IN APPROPRIATE BLANKS - ITEMIZE ANY NON-REIMBURSABLE EXPENSES ON REVERSE OF LAST COPY

				TRANSPORTATION				BUSINESS MEALS				MISC.		
								Itemize Below			ENTERTAINMENT	EXPENSES	DAILY TOTAL	
Date	Day	CITY AND STATE	LODGING	AIR, RAIL, ETC.	RENTAL CAR, LIMO, ETC.	LOCAL TAXI, TOLLS & PUBLIC TRANSIT	AUTO EXPENSES	BREAKFAST	LUNCH	DINNER	Itemize Below	Itemize Below		
2/7/2017		Opelika, AL					1.61						1.61	
2/9/2017		Opelika, AL					8.56						8.56	
2/13/2017		Opelika, AL					8.56						8.56	
2/15-17/2017		Tuscaloosa, AL					173.34						173.34	
2/22/2017		Opelika, AL					8.56						8.56	
2/28/2017		Opelika, AL					2.68						2.68	
3/2/2017		Opelika, AL					2.14						2.14	
3/3/2017		Opelika, AL					1.61						1.61	
3/8/2017		Opelika, AL					8.56						8.56	
3/10/2017		Opelika, AL					4.28						4.28	
3/10/2017		Opelika, AL					2.14						2.14	
3/10/2017		Opelika, AL					3.21						3.21	
3/13/2017		Opelika, AL					3.21						3.21	
3/15/2017		Opelika, AL					8.56						8.56	
3/16/2017		Auburn, AL					15.52						15.52	
22-Mar		Opelika, AL					8.56						8.56	
3/23/2017							8.03						8.03	
			0.00	0.00	0	0	0.00	269.13	0.00	0.00	0	0	0	269.13

WEEKLY CATEGORY TOTALS\$

WEEKLY TOTAL OF EXPENSES

[illegible]

Attachment: CM 4-04-17, expense reports (068-17 : Expense Reports from Various Departments.)

EXPENSE REPORT

PERIOD ENDING

NAME

DEPARTMENT

Name Leigh Krehling

Department Community Relations - 1160

DAY	CITY AND STATE	LODGING	TRANSPORTATION				BUSINESS MEALS			ENTERTAINMENT Itemize Below	MISC EXPENSES Itemize Below	DAILY TOTAL
			AIR RAIL, ETC	RENTAL CAR LIMO ETC	LOCAL TAXI, TOLLS & PUB- LIC TRANSIT	AUTO EXPENSES Itemize Below	BREAKFAST	LUNCH	DINNER			
SUN												0.00
MON												0.00
TUE 3/7/17	Montgomery, AL (WW1 Centennial meeting)					67.95						67.95
WED	<i>Auburn</i>											0.00
THU 3/9/17	Montgomery, AL (Southern History Symposium)					7.49						7.49
FRI												0.00
SAT												0.00
WEEKLY CATEGORY TOTALS \$		0.00	0.00	0.00	0.00	75.44	0.00	0.00	0.00	0.00	0.00	75.44

WEEKLY TOTAL EXPENSES

DATE	NAME OF PERSON(S) ENTERTAINED. COMPANY, TITLE	TIME & PLACE	NATURE & PURPOSE OF ENTERTAINMENT	AMOUNT	% OR \$ ALLOCATED TO BUSINESS

Agree To P.O. _____
 Exts Verified _____
 Footing Verified _____
 Inv. Price Bld Price _____
 Ok To Pay _____
 A/C # Verified _____

NUMBER OF DAYS AWAY FROM HOME

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS

NATURE OR PURPOSE OF TRAVEL

Attend City approved meeting in Montgomery

METHOD OF REIMBURSEMENT

☐ DEDUCT FROM
MY ADVANCE

☒ MAIL TO

ITEMIZED AUTOMOBILE EXPENSES

DATE	MILEAGE, GAS, PARKING REPAIRS, ETC	AMOUNT
3/7/19	127 miles @ .535	67.95
3/9/17	14 miles @ .535	7.49

ITEMIZED MISCELLANEOUS EXPENSES

DATE	ITEMS	AMOUNT

Leigh Krehling

Community Relations

SIGNATURE

APPROVED BY

Personal Expenses*

NAME

Patricia A. Jones *

DEPARTMENT

Legislative

EXPENSE REPORT

PERIOD ENDING

March 11-15, 2017

ITEMIZE ALL REIMBURSABLE EXPENSES IN APPROPRIATE BLANKS - ITEMIZE ANY NON-REIMBURSABLE EXPENSES ON REVERSE OF LAST COPY.

DAY	CITY AND STATE	LODGING	TRANSPORTATION			AUTO EXPENSES (Itemize Below)	BUSINESS MEALS (Itemize Below)			ENTERTAINMENT (Itemize Below)	MISC. EXPENSES (Itemize Below)	DAILY TOTAL
			AIR, RAIL, ETC.	RENTAL CAR, LIMOS, ETC.	LOCAL TAXI, TOLLS & PUBLIC TRANSIT		BREAKFAST	LUNCH	DINNER			
SUN												
MON												
TUE												
3/15/17 WED	Washington, DC										6.00	6.00
THU												
FRI												
3/11/17 SAT	Atlanta - Washington, DC					23.00	51.03				6.00	80.03
WEEKLY CATEGORY TOTAL \$												23.00 51.03 12.00 86.03

WEEKLY TOTAL OF EXPENSES \$

ITEMIZED ENTERTAINMENT AND BUSINESS MEALS

DATE	NAME OF PERSON(S) ENTERTAINED; COMPANY, TITLE	TIME & PLACE	NATURE & PURPOSE OF ENTERTAINMENT	AMOUNT	% OR \$ ALLOCATED TO BUSINESS
	Agree To P.O. _____ Exts Verified _____ Footing Verified _____ Inv. Price Bio Price _____ Ok To Pay _____ A/C # Verified _____				

NUMBER OF DAYS AWAY FROM HOME

5

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS

NATURE OR PURPOSE OF TRAVEL

National League of Cities

METHOD OF REIMBURSEMENT

☐ DEDUCT FROM
MY ADVANCE

OR

☒ MAIL
TO:

Patricia A. Jones
1407 Harper Street
Opelika, AL 36801
Patricia A. Jones

SIGNATURE

APPROVED BY

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Wilson Jones.

WHITE - ORIGINAL

CANARY - DUPLICATE

EXPENSE REPORT

PERIOD ENDING

NAME

Lisa Gallagher

DEPARTMENT

Department Parks & Recreation

DAY	CITY AND STATE	LODGING	TRANSPORTATION				BUSINESS MEALS			ENTERTAINMENT Itemize Below	MISC EXPENSES Itemize Below	DAILY TOTAL
			AIR RAIL, ETC	RENTAL CAR LIMO ETC	LOCAL TAXI, TOLLS & PUB- LIC TRANSIT	AUTO EXPENSES Itemize Below	BREAKFAST Itemize Below	LUNCH Itemize Below	DINNER Itemize Below			
	Opelika / Lee Co.											0.00
2/22/17	Tupelo, MS					149.26						149.26
2/24/17	Tupelo, MS					149.26						149.26
												0.00
												0.00
												0.00
												0.00
												0.00
WEEKLY CATEGORY TOTALS \$		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	298.52

WEEKLY TOTAL EXPENSES

DATE	NAME OF PERSON(S) ENTERTAINED: COMPANY, TITLE	TIME & PLACE	NATURE & PURPOSE OF ENTERTAINMENT	AMOUNT	% OR \$ ALLOCATED TO BUSINESS
					100%
		Agree To P.O.			100%
		Exts Verified			100%
		Footing Verified			100%
		Inv. Price Blo Price			100%
		Ok To Pay			100%
		A/C # Verified			100%
					100%
					100%

ITEMIZED AUTOMOBILE EXPENSES

DATE	MILEAGE, GAS, PARKING REPAIRS, ETC	AMOUNT
2/22	Mileage (279 miles)	149.26
2/24	Mileage (279 miles)	149.26
		298.52

ITEMIZED MISCELLANEOUS EXPENSES

DATE	ITEMS	AMOUNT

NUMBER OF DAYS AWAY FROM HOME

3

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS

0

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS

0%

NATURE OR PURPOSE OF TRAVEL

Fitness conference in Tupelo, MS

METHOD OF REIMBURSEMENT

☐ DEDUCT FROM
MY ADVANCE☒ MAIL TO

Lisa Gallagher

Sam Bailey
Signature

Approved by

NAME Cynthia G BoydDEPARTMENT Accounting

EXPENSE REPORT

PERIOD ENDING 3/10/17

ITEMIZE ALL REIMBURSABLE EXPENSES IN APPROPRIATE BLANKS - ITEMIZE ANY NON-REIMBURSABLE EXPENSES ON REVERSE OF LAST COPY.

DAY	CITY AND STATE	LODGING	TRANSPORTATION				BUSINESS MEALS Itemize Below			ENTERTAIN- MENT Itemize Below	MISC. EXPENSES Itemize Below	DAILY TOTAL
			AIR, RAIL, ETC.	RENTAL CAR, LIMO, ETC.	LOCAL TAXI, TOLLS & PUB- LIC TRANSIT	AUTO EXPENSES Itemize Below	BREAKFAST	LUNCH	DINNER			
SUN												
MON												
TUE												
WED												
THU	Montgomery, AL						55.75					55.75
FRI	Montgomery, AL						55.75					55.75
SAT												
WEEKLY CATEGORY TOTALS \$												111.50

RECEIVED
MAR 30 2017
BY: JM

ITEMIZED ENTERTAINMENT AND BUSINESS MEALS					
DATE	NAME OF PERSON(S) ENTERTAINED; COMPANY, TITLE	TIME & PLACE	NATURE & PURPOSE OF ENTERTAINMENT	AMOUNT	% OR \$ ALLOCATED TO BUSINESS
			Agree To P.O. _____ Exts Verified _____ Footing Verified _____ Inv. Price Bio Price _____ Ok To Pay _____ A/C # Verified _____		

ITEMIZED AUTOMOBILE EXPENSES		
DATE	MILEAGE, GAS, PARKING, REPAIRS, ETC.	AMOUNT
3/9/17	104.2 x .535	55.75
3/10/17	104.2 x .535	55.75

ITEMIZED MISCELLANEOUS EXPENSES		
DATE	ITEMS	AMOUNT

WEEKLY TOTAL OF EXPENSES *

NUMBER OF DAYS AWAY FROM HOME 2NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS 0% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS 0

NATURE OR PURPOSE OF TRAVEL

Travel to Montgomery
to AREA Utility Auto
Training

METHOD OF REIMBURSEMENT

☐ DEDUCT FROM
MY ADVANCE

OR

☐ MAIL
TO:

SIGNATURE

APPROVED BY

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REDIFORM.

WHITE - ORIGINAL

CANARY - DUPLICATE

Packet Pg. 32

Attachment: CM 4-04-17, expense report (3) (068-17 : Expense Reports from Various Departments.)

RESOLUTION NO. 069-17

Designate City Personal Property Surplus and Authorize Disposal**RESOLUTION NO. _____**

WHEREAS, the City of Opelika, Alabama, has certain items of personal property which are no longer needed for public or municipal purposes; and

WHEREAS, Section 11-43-56 of the Alabama Code of 1975 authorizes the Municipal Governing body to dispose of unneeded personal property;

NOW, THEREFORE, BE IT RESOLVED by the City of Opelika, Alabama as follows:

SECTION 1. That the following personal property owned by the City of Opelika, Alabama, is no longer needed for public or municipal purposes:

No.	Qty.	Unit	Item Description	Fixed Asset #
1.	1	Ea.	1998 Recycling Trailer	87001534
2.	1	Ea.	2006 Chevrolet Tahoe VIN 1GNEC13Z46R134132	87002429

SECTION 2. That the Mayor is hereby authorized and directed to dispose of the personal property owned by the City of Opelika, Alabama, described in Section 1 above. If any such property has marketable value, the Mayor shall receive bids or quotations for such property and shall sell the same to the highest bidder. If the property has no marketable value, the Mayor may dispose of such property in the most economical and feasible manner available to him.

ADOPTED AND APPROVED this the _____ day of _____, 2017.

Patricia A. Jones, President Pro-tem
City of Opelika

ATTEST:

Robert G. Shuman, CMC
City Clerk - Treasurer

RESOLUTION NO. 070-17

Purchase Swimming Starting Blocks-Sole Source - P&R**RESOLUTION NO. _____**

WHEREAS, the Parks and Recreation Department desires to purchase Swimming Starting Blocks; and

WHEREAS, this is a sole source purchase; and

WHEREAS, Paddock Pool Equipment Company, Inc. is the sole vendor; and

WHEREAS, this is budgeted from Capital Outlay;

NOW, THEREFORE, BE IT RESOLVED by the City of Opelika, Alabama as follows:

1. That the purchase be awarded to Paddock Pool Equipment Company, Inc.
2. That the Purchasing-Revenue Manager be authorized to issue a purchase order to Paddock Pool Equipment Company, Inc. not to exceed \$18,919.00 as a sole source purchase.
3. That the Controller is authorized to adjust the budget as necessary for this purchase.

APPROVED AND ADOPTED this the _____ day of _____, 2017.

Patricia A. Jones, President Pro-tem
City of Opelika, Alabama

ATTEST:

Robert G. Shuman
City Clerk - Treasurer

CITY OF OPELIKA
Sole Source Justification

DEPARTMENT Parks & Recreation

REQUISITION NUMBER _____

NAME OF REQUESTING EMPLOYEE Mandy Johnson

VENDOR Paddock Pool Equipment Company

PRODUCT/SERVICE Swimming Starting Blocks

Estimated annual expenditure for the commodity or service \$ 18,919.00

Initial all entries below that apply to the proposed purchase: Attach a detailed explanation containing complete justification and support documents. (More than one entry will apply to most sole source products/services requested).

1. Sole Source Request is for the original manufacturer or provider of item(s) or services, and there are no regional distributors. (Attach the manufacturer's witness certification that no regional distributors exist. Item no.4 also must be completed). X
2. Sole Source Request is for the only the vendor who supplies this product/services within the State of Alabama (Franchised Protected Area). _____
3. The Parts/Equipment are not interchangeable with similar parts of another manufacturer. (Explain in separate memorandum) X
4. This is the only known item or service that will meet the specialized needs of the _____ Department or perform the intended function. (Attach memorandum with details of specialized function(s) or application.) _____
5. The Parts/Equipment are required from this sole source to permit standardization. (Attach memorandum describing basis for standardizing request.) _____
6. None of the above apply. A detailed explanation and justification for this sole source request is contained in the attached memorandum. _____

The undersigned requests that the State of Alabama Bid Law Title 41 Article 3 Competitive Bidding Requirements be waived and that the vendor identified as the supplier of the service or material described in this sole source justification be authorized as a sole source for the service or material. I further certify that the item(s) requested is of an indispensable nature, all other viable alternatives have been explored and it has been determined that only this product or service will fulfill the function for which the product is needed.

DEPARTMENT HEAD SIGNATURE Sam Bailey
 DEPARTMENT/DIVISION/DATE Parks + Rec 3/28/17

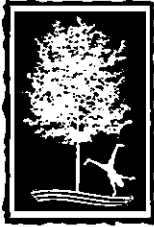
PURCHASING DEPARTMENT USE ONLY

PURCHASING AGENT APPROVAL
 (SIGNATURE/DATE) AS

DISAPPROVAL/DATE 3/29/17.

COMMENTS _____

COUNCIL ACTION/DATE _____



SPORTSPLEX

AQUATICS CENTER

OPELIKA, ALABAMA

Sole Source Request

Paddock Pool Equipment Company is the original manufacturer of the starting blocks at the SportsPlex pool. The specks for the far end of the pool are made for this type of starting block. In order for new starting blocks to match and fit into the specks already in the pool deck the blocks need to come from the same manufacturer.

Sam Bailey

Attachment: 4-4-17 - SWIMMING STARTING BLOCKS - SOLE SOURCE - CNCL PKT (070-17 : Swimming Starting Blocks-Sole Source-P&R)



PADDOCK

POOL EQUIPMENT COMPANY
Commitment. Innovation. Service.

Paddock Pool Equipment Company, Inc.
555 Paddock Parkway
Rock Hill, SC 29730
United States of America

Ph: 803-324-1111

Fax: 803-324-1116

PADDOCK
Evacuator
Chloramine Evacuation System

Quote

Number: 3594

Date: 23-Feb-17

To

Opelika Aquatic Center
ACCT: CO1007
1001 Andrews Rd.
Opelika, AL 36801
United States of America

Quote To

Johnson, Mandy
Opelika Aquatic Center
ACCT: CO1007
1001 Andrews Rd.
Opelika, AL 36801
United States of America

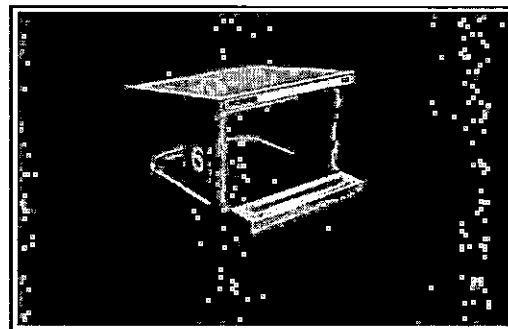
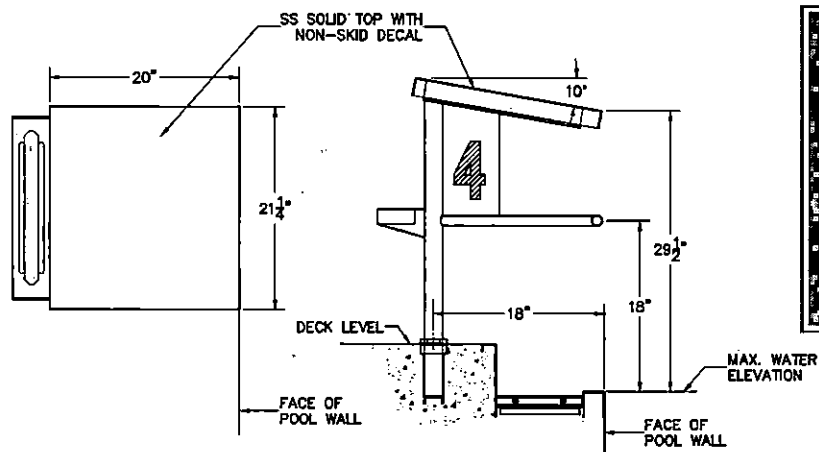
Ph: 334-705-5560

Ph: 334-705-5560

Terms		Ship Via		Salesperson
Advance Payment		FedEx Std Grd		0178
Quantity	Description	Unit Price	Amount	
	Reference: Opelika Aquatic			
8 ea	Line: 001 Part: 9400108 Platform, Starting, EZ, 304 Set II Less Anchors - Dual Post Expiration Date: 25-Mar-17 Rev:	\$2,207.00	\$17,656.00	
16 ea	Line: 002 Part: 8000158 Collar, Bushing, Brass for Threaded Anchor Expiration Date: 25-Mar-17 Rev:	\$50.00	\$800.00	
1 ea	Line: 003 Part: Estimated shipping & handling Expiration Date: 25-Mar-17 Rev:	\$463.00	\$463.00	
		Total:	\$18,919.00	



EZ Set II Starting Platform



Paddock's EZ Set II Starting Platform is quickly and easily removable.

Platform shall be rear mounted and have a 20" wide x 21 1/4" long top.

Flush with the front edge of the platform is a backstroke starting bar.

A mounting tread shall be positioned off the rear legs. Tread shall have a deeply formed integral, slip resistant surface firmly attached to the legs by welded stainless steel gussets.

At each side of the platform, attached to the legs, shall be a stainless steel plate on which the lane number is displayed with a 4" standard numeral.

Top of starting platform shall be with a non-slip solid surface.

Colors, custom logos and vertical backstroke grips are available as options.

4909-A anchors with 19" spacing are sold separately.

4909-S EZ Set II Starting Platform St. St. Type _____ Qty _____

PN 9400108 Also available in Long Reach with 24" Setback St. St. Type 304 Qty 6

555 Paddock Parkway, Rock Hill, SC 29730

T: 800-849-2729 F: 803-324-1116

www.paddockindustries.com

Attachment: 4-4-17 - SWIMMING STARTING BLOCKS - SOLE SOURCE - CNCL PKT (070-17 : Swimming Starting Blocks-Sole Source-P&R)

RESOLUTION NO. 071-17

Resolution Approving Employment Contract with Joel D. Motley

RESOLUTION NO. _____

**RESOLUTION APPROVING EMPLOYMENT CONTRACT
WITH JOEL D. MOTLEY**

WHEREAS, the City of Opelika, Alabama, (the “City”) requires the services of a City Administrator; and

WHEREAS, Joel D. Motley has the necessary education, experience, skills and expertise to serve as the City Administrator; and

WHEREAS, Joel D. Motley is presently serving the City as City Administrator and has performed in accordance with the requirements of his contract; and

WHEREAS, the City Council of the City of Opelika desires to renew Joel D. Motley’s Employment Contract to serve as City Administrator; and

WHEREAS, the City Council has been furnished an Employment Contract between the City and Joel D. Motley, and the City Council has determined that the terms of said Contract are acceptable to the City.

NOW, THEREFORE, BE IT RESOLVED by the City Council (the “Council”) of the City of Opelika as follows:

1. That the Employment Contract (the “Contract”) to be entered into between the City and Joel D. Motley, a copy of which is attached hereto and marked as Exhibit “A”, be and the same is hereby approved, authorized, ratified and confirmed in the form substantially

submitted to the City Council with such changes thereto (by addition, deletion or substitution), as the Mayor shall approve, which approval shall be conclusively evidenced by the execution and delivery of said Contract.

2. That the Mayor is hereby authorized and directed to execute and deliver said Contract in the name of and on behalf of the City of Opelika and the City Clerk is hereby authorized and directed to attest the same.

3. That this Resolution shall take effect upon its passage and adoption by the City Council.

ADOPTED AND APPROVED this the _____ day of _____, 2017.

Patricia A. Jones

President pro-tem City Council Opelika, Alabama

ATTEST:

CITY CLERK

EXHIBIT “A”

STATE OF ALABAMA)
 :
 COUNTY OF LEE) EMPLOYMENT CONTRACT

THIS AGREEMENT made and entered into this the ____ day of April, 2017, by and between the **CITY OF OPELIKA, ALABAMA**, a municipal corporation, hereinafter called “Employer”, as party of the first part, and **JOEL D. MOTLEY**, hereinafter called “Employee”, as party of the second part.

RECITALS

WHEREAS, Employer desires to employ the services of JOEL D. MOTLEY as City Administrator of the City of Opelika; and

WHEREAS, it is the desire of the City Council of the City of Opelika (hereinafter called “Council”), to provide certain benefits, establish certain conditions of employment and to set working conditions of said Employee; and

WHEREAS, it is the desire of the Council to (1) secure and retain the services of Employee and to provide inducements for him to remain in such employment, (2) to make possible full work productivity by assuring Employee’s morale and peace of mind with respect to future security, (3) to act as a deterrent against misconduct or dishonesty on the part of the Employee, and (4) to provide a just means for terminating Employee’s services at such time as he may be unable fully to discharge his duties due to disability or when Employer may otherwise desire to terminate his employ.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

SECTION I. DUTIES AND WORKING HOURS.

Employer hereby employs Employee as City Administrator and Employee accepts such employment, subject to the terms and conditions set forth herein. As City Administrator, Employee shall be responsible for administering and overseeing the daily operations of all departments of city government, which are under the Mayor's directions, with the job responsibilities and duties attendant to the position as set forth in the job description incorporated herein and attached hereto as Exhibit "A" and as may be hereinafter amended and with any other job responsibilities and duties as may be assigned by the Mayor from time to time. Employee hereby accepts and agrees to such employment, subject to the general supervision and pursuant to the orders, advice and direction of the Mayor. Employee shall perform such duties as are customarily performed by one holding such a position in other, same or similar positions as that engaged in by the Employer, and shall also additionally render such other and related services and duties as may be assigned to him from time to time by the Mayor.

Employee shall devote his full energies, interest, abilities, and productive time to the performance of this Agreement and utilize his best efforts to promote Employer's interest. Employee's duties may involve expenditures of time in excess of the regularly established work day or in excess of a forty (40) hour work week and may also include time outside of normal office hours. Employee's base salary includes compensation for all hours worked and Employee shall be classified as an exempt employee for purposes of overtime and wage and hour laws. Employee shall not engage in any activity, consulting service or enterprise for compensation or otherwise which is actually or potentially in conflict with or inimical to, or which materially interferes with his duties to Employer.

Employee agrees to adhere to all of the policies, procedures, rules and regulations promulgated by the Employer. These policies, procedures, rules and regulations include, but are

not limited to, those set forth within the Personnel Policies and Procedures Manual, Departmental Rules, Executive Orders, any summary benefit plan descriptions, or any of the personal practices or policies of the Employer. To the extent that Employer's policies, procedures, rules and regulations conflict with the terms of this Agreement, the specific terms of the Agreement will control.

As a condition of employment, Employee agrees to maintain, during the term of this Agreement, his principal residence within the corporate limits of the City of Opelika.

SECTION II. TERM.

Unless sooner terminated in accordance with the provisions of Sections III and IV hereof, this Agreement shall remain in full force and effect for a term of three (3) years beginning April 16, 2017 to and including April 15, 2020.

SECTION III. TERMINATION BY EMPLOYER

(A) DEATH OF EMPLOYEE. If Employee dies before his employment is otherwise terminated, this Contract shall terminate on the date of the Employee's death and all payments of compensation to which the Employee would have been entitled shall cease as of the date of the Employee's death.

(B) ILLNESS OR INCAPACITY. If the Employee is prevented from performing his duties due to illness or incapacity for an aggregate of sixty (60) days in any one year during the term of this Agreement, the Employer is hereby given the option to terminate this Agreement. Such option shall be exercised by the Employer giving written notice to the Employee of the Employer's intention to terminate said Agreement. On the giving of such notice, this Contract shall terminate 30 days after the date of said notice of termination. Upon the effective date of termination,

neither party shall have any further obligation to the other. Notwithstanding the provisions of this paragraph, the Employee shall be afforded the same rights and privileges, as any other employee of the City to participate in any group disability insurance policy or other disability plan of the City which may be now in effect or may be hereinafter adopted.

(C) MISCONDUCT. This Agreement may, at the option of the Employer, be terminated immediately by the Employer upon the occurrence of any of the following acts:

- (1) The Employee being indicted or convicted for any misdemeanor involving moral turpitude, or a felony.
- (2) The Employee conducting himself in a fraudulent or dishonest manner with respect to his duties of employment if, in the opinion of the Mayor, that such conduct discredits Employer or is detrimental to the reputation and standing of Employer. Such option shall be exercised by the Employer giving written notice to Employee of the Employer's intent to terminate and the grounds for such termination.
- (3) Employee having been disciplined by the Mayor repeatedly and/or having serious unacceptable conduct in accordance with the provisions of Section 8 of the Personnel Policies and Procedures Manual of the City of Opelika. Employee shall comply with all policies and procedures of Employer which shall, from time to time be reasonably promulgated. Employee specifically acknowledges that he will be disciplined for violation of established City rules and regulations in accordance with the provisions of the Personnel

Policies and Procedures Manual. The Employee's appeal rights shall be governed by Section 9 of the Personnel Policies and Procedures Manual.

Upon the effective date of termination, neither party shall have any further obligation to the other.

SECTION IV. TERMINATION BY EMPLOYEE

Employee may voluntarily resign his position with Employer before the expiration of the term of his employment, by giving sixty (60) days advance notice of his intent to terminate. Upon termination by voluntary resignation, neither party shall have any further obligation to the other beyond the effective date of termination.

SECTION V. SALARY, REIMBURSEMENTS AND EMPLOYER COSTS.

(a) Base Salary. The Employer shall pay the Employee, as compensation for his services, an annual salary of \$117,132.00 payable in installments at the same time as classified employees of the City are paid. All compensation paid to Employee by Employer shall be subject to customary withholding and employment taxes as required by law. Beginning fiscal year 2018-2019 the Employee shall be eligible for merit increases on an annual basis from 1% to 10% per year based on his job performance. All merit increases shall be awarded at the discretion of the Mayor and will become effective on or about the anniversary date of his contract.

(b) Automobile Allowance. In addition to the base salary noted above, Employer will pay to employee a monthly automobile allowance of \$450.00. This allowance will be paid along with the Employee's salary and is a taxable benefit under IRS guidelines. This allowance is paid to Employee in lieu of the provision of a City vehicle and is intended to compensate the Employee for routine business travel within Lee County. The Employee shall be responsible for

maintaining liability and comprehensive insurance on the vehicle with limits as approved by the Mayor.

(c) Civic Club Dues. Employer acknowledges the value of having the Employee participate and be directly involved in a local civic club or organization. Accordingly, Employer shall pay the reasonable membership fees and/or dues to enable the Employee to become an active member in a local civic club as approved by the Mayor.

SECTION VI. EMPLOYEE BENEFITS

During each twelve (12) month period of the term of this Contract Agreement, Employee shall be entitled to fifteen (15) paid days of vacation. Except for vacation leave, this Agreement shall not be in lieu of all employee benefits to which Employee may be entitled as an employee of the City relating to holidays, sick leave, retirement, insurance, medical and life, or other plans which may now be in effect or which may hereafter be adopted. Employee shall have the same rights and privileges to participate in such plans and benefits as any other employee during his period of employment. The Employer's rights with respect to such benefits shall be subject to (i) the provisions of the relevant contracts, policies or plans providing such benefits, and (ii) the right of the Employer to amend, modify, or terminate any of such benefits if that occurs with respect to all classes of employees covered by a given benefit.

SECTION VII. WORKING FACILITIES.

The Employee shall have a private office, administrative assistance, cell phone, and other facilities, equipment, and services that are suitable to his position and appropriate for the performance of his duties.

SECTION VIII. EXTENT OF SERVICES

The Employee agrees that he will at all times faithfully, industriously and to the best of his ability, experience, and talents, perform all of the duties that may be required of and from him pursuant to the express and implicit terms of this Agreement and shall assume and perform all additional responsibilities and duties related to his job description that the Mayor from time to time may assign him. With approval of the Mayor, the Employee shall be permitted to enroll in professional development courses to enhance the performance of his job.

SECTION IX. ANNUAL EVALUATION.

Annually, the Mayor, in consultation with the Employee, shall define such goals and performance objectives as he determines necessary. The Mayor shall identify obtainable goals within the time limitations as specified in the annual operating and capital budgets and appropriations provided. Moreover, the Mayor shall review and evaluate the performance of the Employee at least once annually. Said evaluation and review shall be in accordance with the established rules and regulations of the Personnel Policies and Procedures Manual. Further, the Mayor shall provide the Employee with an adequate opportunity for the Employee to discuss his evaluation with the Mayor.

SECTION X. OTHER TERMS AND CONDITIONS OF EMPLOYMENT.

The Mayor, in consultation with Employee, shall fix any other terms and conditions of employment as he may determine from time to time, relating to the performance of Employee, provided such terms and conditions are not inconsistent with the provisions of this Agreement, the Employee's job description or any other law.

SECTION XI. NO REDUCTION OF BENEFITS.

The Employer shall not at any time during the term of this Agreement reduce the salary, compensation, or other financial benefits of Employee, except to the degree as such a reduction

across-the-board for all employees of the Employer. Notwithstanding anything to the contrary the Employee's rights with respect to compensation and benefits shall be subject to the provisions of Sections V and VI herein, and his rights to salary compensation and other financial benefits may be terminated in accordance with said provisions of this Contract.

SECTION XII. SEVERABILITY.

If any term, covenant, or condition of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable, the remainder of this Agreement and/or the application of any term or provision to persons or circumstances other than those to which it is held invalid or unenforceable shall to be affected thereby, and all other terms shall be valid and enforceable to the fullest extent permitted by law.

SECTION XIII. NO REDUCTION OF BENEFITS.

No assignment of this Agreement or the rights and obligations hereunder shall be valid without the specific written consent of both parties hereto.

SECTION XIV. GOVERNING LAW.

This Agreement has been executed and delivered in, and shall be interpreted, construed and enforced pursuant to and in accordance with the laws of the State of Alabama.

SECTION XV. GENDER AND NUMBER.

Whenever the context hereof required, the gender of all words shall include the masculine, feminine, and neuter, and the number of all words shall include singular and plural.

SECTION XVI. AMENDMENTS AND AGREEMENT EXECUTION

This Agreement and amendments thereto shall be in writing and executed in multiple copies. Each multiple copy shall be deemed an original, but all multiple copies together shall constitute one and the same instrument.

SECTION XVII. NOTICES.

Any notice, demand, or communication required, permitted, or desired to be given hereunder shall be deemed effectively given when personally delivered or mailed by prepaid, certified mail, return receipt requested, addressed as follows:

Employee: JOEL D. MOTLEY
807 Forestdale Court
Opelika, AL 36801

Employer: City of Opelika
P.O. Box 390
Opelika, AL 36803
ATTN: Mayor

SECTION XVIII. WAIVER OF BREACH.

The waiver of either party of a breach or violation of any provision of this Agreement shall not operate as, or be construed to be, a waiver of any subsequent breach of the same or other provision hereof.

SECTION XIX. TIME OF ESSENCE.

Time shall be of the essence with respect to this Agreement.

SECTION XX. ENTIRE AGREEMENT.

This Agreement (including attachments) supersedes all previous contracts and constitutes the entire agreement between the parties hereto.

SECTION XXI. HEADINGS.

Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

IN WITNESS WHEREOF, the City of Opelika has caused this Agreement to be signed and executed in its behalf by its Mayor, and duly attested by its City Clerk, and the Employee has signed and executed this Agreement the day and year first above written.

THE CITY OF OPELIKA, ALABAMA

By: _____
GARY FULLER, ITS MAYOR

ATTEST:

ROBERT G. SHUMAN, CITY CLERK

JOEL D. MOTLEY

STATE OF ALABAMA
 COUNTY OF LEE

I, the undersigned authority, a Notary Public in and for said county and state, hereby certify that GARY FULLER and ROBERT G. SHUMAN, whose names as Mayor and City Clerk, respectively, of the City of Opelika, Alabama, a municipal corporation, are signed to the foregoing instrument who are known to me, acknowledged before me on this day, that, being informed of the contents of said instrument they, in their capacity as Mayor and City Clerk for the City of Opelika, executed the same voluntarily on the day the same bears date.

GIVEN under my hand and official seal of office this the _____ day of April, 2017.

 NOTARY PUBLIC
 MY COMMISSION EXPIRES: _____

STATE OF ALABAMA
 COUNTY OF LEE

Before me, the undersigned authority, a Notary Public in and for said county and state, hereby certify that JOEL D. MOTLEY, whose name is signed to the foregoing conveyance, and

Attachment: Employment Contract Joel D Motley 03-30-2017 (071-17 : Employment Contract Joel D. Motley)

who is known to me, acknowledged before me on this day, that, being informed of the contents of said conveyance, she executed the same voluntarily on the day the same bears date.

GIVEN under my hand and official seal of office this the _____ day of April, 2017.

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

Attachment: Employment Contract Joel D Motley 03-30-2017 (071-17 : Employment Contract Joel D. Motley)

RESOLUTION NO. 072-17

Special Appropriation to KOB - 2017 Garden in the Park.**RESOLUTION NO. _____**

WHEREAS, the Opelika City Council members and Mayor Gary Fuller appreciates and fully supports Keep Opelika Beautiful (KOB) and their various programs; and

WHEREAS, Keep Opelika Beautiful is in need of additional funding to provide their annual 2017 Garden in the Park event; and

WHEREAS, each City Council member would like to participate in a special appropriation from their discretionary reserve fund to sponsor the KOB - Garden in the Park event.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Opelika, Alabama, a municipal corporation, as follows:

1. That the City Council approves a special appropriation from each City Councilman as detailed below to sponsor the 2017 KOB Garden in the Park event:

Patsy Jones	Ward 1	From reserve fund	\$500.00
Tiffany Pitts	Ward 2	From current year acct.	\$500.00
Dozier Smith T	Ward 3	From current year acct.	\$500.00
Eddie Smith	Ward 4	From reserve fund	\$500.00
David Canon	Ward 5	From current year acct.	\$500.00

2. The City Council hereby declares and determines that said appropriation of public funds to be utilized by Keep Opelika Beautiful will serve a public purpose.
3. That the Mayor and the Controller is hereby authorized and directed to transfer \$2,500.00 as detailed in no. 1 above to the appropriate account.

4. That the City Clerk-Treasurer is hereby authorized to prepare and process the appropriate document(s) so a check for \$2,500.00 payable to Keep Opelika Beautiful and earmarked for their 2017 Garden in the Park event.

ADOPTED and APPROVED this the _____ day of _____, 2017.

Patricia A. Jones
President pro-tem of the City Council
City of Opelika, Alabama

Attest:

Robert G. Shuman, CMC
City Clerk - Treasurer

RESOLUTION NO. 073-17

Special Appropriation for Boy Scouts - Distinguished Citizen Award.**RESOLUTION NO. _____**

WHEREAS, the City of Opelika and the Opelika City Council appreciates and fully supports the various activities and programs of the Chattahoochee Council Boy Scouts of America, and

WHEREAS, the Boy Scouts of America is in need of additional funding to assist in covering the expenses involved in their annual Distinguished Citizen of the Year banquet, and

WHEREAS, the City Council wishes to appropriate the total of \$1,000.00 from their discretionary funds to assist in covering the various expenses involved with the Distinguished Citizen of the Year banquet.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Opelika, Alabama, a municipal corporation, as follows:

1. The City Council hereby approves a special appropriation of \$1,000.00 with each City Council member contributing as detailed below, to assist in covering the expenses involved with the Boy Scouts of America annual Distinguished Citizen of the Year banquet:

Patricia Jones	Ward 1	Reserve fund	\$200.00
Tiffany Pitts	Ward 2	Current year account	\$200.00
Dozier Smith T	Ward 3	Current year account	\$200.00
Eddie Smith	Ward 4	Reserve fund	\$200.00
David Canon	Ward 5	Current year account	\$200.00

2. The Opelika City Council hereby declares and determines that said expenditure of these public funds serve a public purpose for the City of Opelika.
3. The Mayor and the Controller is hereby authorized and directed to move \$1,000.00 as detailed in number 1. above to the appropriate account.

4. The City Clerk-Treasurer is hereby authorized and directed to prepare the appropriate documents so that a check for \$1,000.00 payable to the Chattahoochee Council Boy Scouts of America and earmarked for the annual Distinguished Citizen of the Year Banquet may be prepared and mailed.

APPROVED and ADOPTED this the _____ day of _____, 2017.

Patricia A. Jones

President pro-tem of the City Council

City of Opelika, Alabama

Attest:

Robert G. Shuman, CMC

City Clerk - Treasurer

ORDINANCE NO. 108-17-ORD

Amend City Code, Chapter 7 Article III, Erosion & Sediment Control - 2Nd Reading.

See attached ordinance

2470.txt

The 2017 ADEM permit for Storm Water Management that the City is obligated to added one major requirement that needed to be placed in the Post Construction Ordinance also being amended. This change was to require developments and property owners (HOA and developers) to inspect their facilities and to maintain these inspections on hand for audits from the City and ADEM. Maintenance of detention ponds, grounds and drainage is already required but inspections was not until now.

With the addition of this requirement into Article IV of this, we decided this was a good time to re-organize and update the language in both Article III and Article IV. Much of the City's land disturbance permitting requirements that were entered in 2014 were entered into Article IV where it should have been Article III. This was relegated to the appropriate location and minor errors and redundancies were corrected with these two amendments.

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE *CODE OF ORDINANCES* OF THE CITY OF OPELIKA, BY REPEALING ARTICLE III OF CHAPTER 7—
“EROSION AND SEDIMENT CONTROL” IN ITS ENTIRETY AND
SUBSTITUTING IN LIEU THEREOF A NEW ARTICLE III ENTITLED
“EROSION AND SEDIMENT CONTROL”**

WHEREAS, migrating soil from land disturbance sites often creates soil erosion; and

WHEREAS, erosion is defined as the process by which the land surface is worn away by the action of water, ice and gravity; and

WHEREAS, during the construction process, soil is highly vulnerable to erosion by wind and water; and

WHEREAS, eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species; and

WHEREAS, eroded soil also necessitates repair of sewers and ditches and the dredging of lakes; and

WHEREAS, in addition, clearing and grading during construction causes the loss of native vegetation necessary for terrestrial and aquatic habitats; and

WHEREAS, the most effective way to control soil erosion is at its source; and

WHEREAS, erosion control and best management practices (BMPs) are required on all land disturbance sites to provide a defense against soil erosion; and

WHEREAS, BMPs can be either structural or vegetative; and

WHEREAS, localities within the State of Alabama are required to comply with both State and Federal laws, regulations and permits which require a locality to establish a plan to manage storm water run-off occurring during the construction process; and

WHEREAS, the City of Opelika, Alabama (the “City”) does enact this erosion and sediment control ordinance to provide for and promote compliance by the City with Federal and State laws governing the discharge of pollutants from the MS4 and to provide for and promote compliance with the City’s NPDES permit, issued by the Alabama Department of Environmental Management (“ADEM”); and

WHEREAS, the City does enact this ordinance to provide reasonable guidance to local agencies, engineers, developers or others involved in erosion control and storm water management in the City of Opelika..

NOW, THEREFORE, BE IT ORDAINED by the City Council (the “Council”) of the City of Opelika, Alabama (the “City”) as follows:

Section 1. Replacement of Article III of Chapter 7 of the *Code of Ordinances*; adoption of Section 7-80 through Section 7-94. That Article III of Chapter 7 of the *Code of Ordinances* of the City of Opelika, Alabama, entitled “Erosion and Sediment Control”, is hereby repealed in its entirety and replaced with new Article III entitled “Erosion and Sediment Control”, consisting of sections 7-80 through 7-94, which said article shall read as follows:

ARTICLE III. - EROSION AND SEDIMENT CONTROL

DIVISION 1. - GENERALLY

Sec. 7-80. – Introduction and 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 required by the city's phase II municipal separate storm sewer (MS4) national pollutant discharge elimination system (NPDES) permit, issued by the Alabama Department of Environmental Management (ADEM), the city must develop, implement, and enforce a storm water management program designed to reduce the discharge of pollutants from its MS4 to the "maximum extent practicable," to protect water quality and to satisfy the appropriate water quality requirements of the Clean Water Act (CWA). This article is therefore enacted to preserve, protect, and promote the health, safety, and welfare of the citizens of the city, through the reduction, control, and prevention of the discharge of pollutants from newly developed and redeveloped sites to the MS4. It is the expressed intent of the city in enacting this article to provide for and promote compliance by the city with federal and state laws governing the discharge of pollutants from the MS4 and to provide for and promote compliance with the city's NPDES permit, issued by ADEM pursuant to its authority under the CWA. Additionally, this policy reinforces the need for those sites less than one (1) acre in size to be classified as "permit by rule" construction sites required to implement and maintain best management practices until land disturbing activities have ceased and permanent stabilization has been achieved.

Sec. 7-81. - Definitions.

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

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

ADEM: The Alabama Department of Environmental Management. The state's regulatory agency created under Code of Ala. 1975, §§ 22-22A-1, et seq., responsible for administering and enforcing the storm water laws of the United States of America and the state. Also known as NPDES rules.

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 be potentially harmful or injurious to human health, welfare, safety or property or to biological productivity, diversity or stability, or which would unreasonably interfere with the enjoyment of life or property.

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

Alabama Handbook: The most recent edition of the Alabama Handbook for Erosion Control, Sediment Control and Storm water Management on Construction Sites and Urban Areas authored by the Alabama Soil and Water Conservation Committee, Montgomery, Alabama.

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

Authority: The definition of "authority" will be defined by each participating entity, i.e. the City of Opelika, The City Engineer is hereby appointed to administer and implement

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

Basin:

- (1) The surface of the area tributary to a stream or lake.
- (2) Space above or below ground capable of retaining or detaining water or debris.

BMPs/Best management practices: Activities, prohibitions of practices, maintenance procedures and management practices, designed and implemented to prevent or reduce the discharge of pollutants to the MS4. Nonstructural BMPs are strategies implemented to control storm water runoff that focus on pollution prevention such as alternative site design, zoning and ordinances, education, and good housekeeping measures. Structural BMPs are engineered devices to control, treat, or prevent storm water runoff pollution. BMPs also include treatment requirements, operating procedures, and practices, to control facility site runoff, spillage or leaks, sludge or waste disposal or drainage from raw material storage and construction sites.

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

Buffer/stream side management zone (SMZ): Areas adjacent to water bodies that reduce volume and flow of surface runoff reducing sedimentation and are a BMP in the Clean Water Act. The area acts as a filter and promotes stable slopes and high water flows. A vegetated zone adjacent to a stream, wetland, or shoreline where development is restricted or controlled to minimize the effects of development. Buffer zones shall be a minimum of twenty-five (25) feet perpendicular from each side of the stream bank, creek, or waterway under "bank-full conditions". Buffers are applicable to any perennial or intermittent stream as indicated on the United States Geological Survey 7.5 Minute Series topographic map (latest revision) and all water bodies including lakes, ponds, and wetlands. Any area within this buffer shall not be cleared or graded unless written authorization is obtained from the authority. Utilization or reinforcement of existing vegetation is preferred. However, where improvements are required, sodding, plugging, use of stockpiled vegetation, willows, tree stock or seeding is acceptable where approved by the authority.

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

Contour: A line of equal elevation above a specified datum. The datum most commonly used is mean sea level having or representing equal elevations.

Community water/Waters of the US: Any or all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells, and other bodies of natural or artificial surface or subsurface water into which the MS4 outfalls flow.

CWA: The Federal Clean Water Act, 33 U.S.C. § 1251, et seq., which was formerly referred to as the Federal Water Pollution Control Act and Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-

217, Public Law 95-576, Public Law 6-483 and Public Law 97-117, 33 U.S.C. § 1251-1387.

Detention pond/Retention pond: A temporary or permanent storm water structure whose primary purpose is to temporarily store storm water runoff and release the stored runoff at a non-erosive or controlled rates.

Development: The process of constructing, improving or adding buildings or facilities to an area of land in its natural state for the purpose of commercial, industrial, residential, retail or any other commercial use that requires the disturbance of said land.

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 emerging from the pipe, conduit or channel is usually expressed as cubic feet per second, gallons per minute or million gallons per day. Set out in Alabama Administrative Code Section 335-6-6-.02.

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

Engineer: A person currently licensed by the state board of registration for professional engineers and land surveyors.

EPA: The environmental protection agency.

Erosion: Process by which land surface is worn away by the action of wind or water also known as geologic weathering.

Erosion and sediment control plan (ESC plan): A site specific drawing or set of drawings prepared by a qualified credentialed professional (QCP) utilizing approved BMP to control erosion and sediment for a development or land disturbance.

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

HOA: In the United States, a homeowner association (HOA) is an entity formed by a real estate developer, comprised of a board of home owners in the development, for the purpose of marketing, managing, and selling of homes and lots in a residential subdivision. Typically these boards are responsible for the perpetual operation and maintenance of grounds, common space features, and drainage systems.

Illicit connection: Any man-made conveyance connecting an illicit discharge directly to the MS4.

Illicit discharge: Any discharge that is not composed entirely of storm water, except discharges pursuant to an NPDES permit and discharges that are specifically excepted from this policy. Not authorized or not permitted.

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

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

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

MS4 Cities: Cities with populations identified by the US EPA/Census that must comply with a state water quality program under annual permits granted by the state environmental agency. Cities shall have jurisdiction over its corporate limits and all shall comply with those required permits and statutes. Cities shall have lawful ordinances, covenants and codes to enforce full compliance; nationally known as NPDES.

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

NON-point source: is considered discharge resulting from land runoff, precipitation, atmospheric deposition, drainage, seepage or hydrologic modification. Nonpoint source (NPS) pollution, unlike pollution from industrial and sewage treatment plants, comes from many diffuse sources. NPS pollution is caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into lakes, rivers, wetlands, coastal waters and ground waters.

NPDES: National pollutant discharge elimination system. NPDES shall mean the national program of issuing, modifying, revoking, etc., permits under Sections 307, 318, 402, and 405 of the CWA, as well as the state permitting program implemented under the CWA and the AWPCA. NPDES shall be enforced in those MS4 identified cities.

Outfall: A source (meaning any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, 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 water runoff at the point of a discharge to waters of the United States of America. It is considered the point it discharges into the streams identified by (NHD) National Hydrologic Database.

Permit: Any permit issued pursuant to this article, permitting discharges to the MS4 under the NPDES.

Permit by rule: The approval of a regulated activity without a formal application and approval process, under the condition that the activity is performed in compliance with all applicable rules. Any failure to comply with applicable rules would subject that activity to penalties for violation and normal application and approval requirements.

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

Point sources: of water pollution are described by the CWA as "any discernible, confined, and conveyance from which pollutants are or may be discharged." These include pipes or man-made ditches from stationary locations such as sewage treatment plants, factories, industrial wastewater treatment facilities, septic systems, ships, and other sources that are clearly discharging pollutants into water sources.

Pollutant: Includes but is not limited to, the pollutants specified in Section 22-22-1(b) (3) of the AWPCA and any other effluent characteristics specified in a permit.

Pollutant loading: The amount of a pollutant entering the MS4 storm water system. See TMDLs.

Post-construction strategies: BMPs and other measures for activities that take place after construction occurs, including structural and non-structural controls to obtain permanent storm water management over the life of the property's use. Requires annual inspections.

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

QCI: Qualified credentialed inspection professional (QCI). Inspection professional hired by the contractor to monitor BMP and ensure compliance with this policy. The inspector certification program shall be as approved by ADEM and refreshed annually.

QCP: Qualified credentialed professional: A certified professional in erosion and sediment control (CPESC) as determined by the Soil and Water Conservation Society or the International Erosion Control Association (IECA). In addition, other registered or certified professionals such as a professional engineer, 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 QCP must be in good standing with the authority granting the registration and the requirements of Alabama Administrative Code Chapter 335-6-12. The QCP 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 BMP or other pollution control devices (silt fences, erosion control fabrics, 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 standard practices and permit requirements. A professional engineer (PE) registered in the State of Alabama must certify the design and structural practices such as spill prevention control and counter-measures (SPCC) plan, containment structures, dam construction, etc.

Redevelopment: any land or property where the use of new facilities occurs with the renovation or replacement of existing facilities on a site that has any previously existing uses.

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

Sedimentation: Process by which eroded material is transported and deposited by action of water, wind, ice and gravity.

Settling basin: A temporary sediment trap or ponding area formed by excavation or construction of embankments where runoff is detained and sediment can settle.

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 in one ownership, and any combination of tracts, lots or parcels of land which are contiguous and 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.

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

Storm water management: The incorporation of a variety of activities and equipment into a plan to address concerns associated with storm water for the purpose of preventing pollution, improving water quality, keeping pollutants out of the runoff, and the implementation of BMPs.

Storm Water Management Program: A program which covers the duration of the NPDES permit. The program shall include a comprehensive planning process which involves public participation and where necessary, intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent practicable, using management practices, control techniques, system design and engineering methods with other provisions which are appropriate. Aka SWMP Plan.

Stream: A flow course or flow way of running water, usually flowing in a particular direction in a definite channel and discharging into some other flow course of running water or body of water. Recognized streams within the MS4 boundaries are referred to the NHD stream.

TMDL: Total maximum daily load is a calculation of the maximum amount of pollutant that a water body can receive and still safely meet water quality standards.

Structural controls: Measures incorporated into existing storm water drainage systems or newly constructed systems to prevent or to 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 flow rates and assist to trap or eliminate pollutants that might otherwise be carried by surface runoff.

Turbidity: A condition in water or wastewater caused by the presence of micro or small suspended matter, resulting in the scattering and absorption of light rays. A measure of fine suspended matter in liquids. Given in NTU's or JTUs. NTUs is the standard.

US-EPA: United States Environmental Protection Agency. Sponsored and passed the 1972 Clean Water Act.

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 telecommunications service.

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

Vegetative control measures: The establishment of vegetative ground cover that shields the soil surface from raindrop impact and the scouring effects from overland storm water flow.

Watercourse: A defined channel with bed and banks within which water flows, either continuously or in season. A watercourse is continuous in the direction of flow and may extend laterally beyond the definite banks to include overflow channels contiguous to the ordinary channel. The term does not include artificial channels such as canals and drains, except natural channels trained or restrained by the works of man, nor does it include depressions or swales through which surface or errant waters pass.

10-year rainfall event: The rainfall event having a ten (10) percent chance of being equaled or exceeded in any given year (i.e. 10-year, one-hour rainfall event is approximately two and three-quarter (2.75) inches).

25-year rainfall event: The rainfall event having a four (4) percent chance of being equaled or exceeded in any given year (i.e. 25-year, one-hour rainfall event is approximately two and three-quarter (2.75) inches).

100-year rainfall event: The rainfall event having a one (1) percent chance of being equaled or exceeded in any given year (i.e. 100-year, one-hour rainfall event is approximately three and nine-tenths (3.9) inches).

100-year flood elevation: The boundary delineated by the crest elevations of the 100-year flood which occurs every 100 years on the mean or average.

DIVISION 2. - REQUIREMENTS

Sec. 7-82. - Administration.

The authority shall enforce the provisions of this policy. Whenever "authority" is used in this policy it shall include the authorized agent of the entity. The City of Opelika shall designate the Engineering Department to act as the authority on behalf of the City of Opelika.

Sec. 7-83. - Permits.

No land disturbing activities that disturb either (a) greater than or equal to one-acre as a commercial development; or (b) less than one-acre private residential development, but whose activity is part of a larger common plan of development or sale that disturbs one-acre or more other than those land disturbing activities exempted from the provisions of this article as set out in section 7-84 shall be conducted within the city without first obtaining the necessary permit(s) from the authority and a NPDES NOI permit application or issued permit. Land disturbance activities occurring within impaired areas (303d. listed streams) must have an issued NPDES permit prior to any land disturbance activities.

(1) Commercial development in the form of plat or plan designed by a registered engineer or land surveyor, including subdivisions, to be developed in an area greater than or equal to one-acre and involves land disturbing activities.

Before the commencement of any land disturbing activities, the applicant must file with the authority an application for a permit.

a. Each application for the issuance of a permit shall be accompanied by a nonrefundable fee according to the following scale:

- Less than 5 acres — \$60.00
- 5 acres to 10 acres — \$90.00
- 10 acres to 25 acres — \$120.00
- 25 acres to 50 acres — \$150.00

- 50 acres to 75 acres — \$180.00
- 75 acres to 100 acres — \$210.00
- Greater than 100 acres — \$240.00

b. The authority may require the applicant to post a bond in the form of a government security, cash, irrevocable letter of credit, or any combination thereof up to but not exceeding five thousand dollars (\$5,000.00) per acre of the proposed land disturbing activity. The Authority shall determine if a bond is required based on the priority of the watershed, proximity to a waterbody, qualification of the disturbance, and at the discretion of the City Engineer. If the applicant fails to comply with the conditions of the permit, the bond may be called by the authority and used to bring the site into compliance.

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

A permit may be amended without the payment of an additional fee upon filing with the authority 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 authority that there are no proposed changes which may affect the quantity and/or quality of storm water runoff. If an amended or restated application is filed with the authority with respect to land disturbing activities for which a permit has been issued, such existing permit shall continue in effect, and the permittee may continue to operate under it unless and until an amended permit is issued, at which time the original permit shall expire and all land disturbing activities must be conducted in accordance with the amended permit.

A permit may be transferred without the payment of an additional fee upon filing with the authority an application for transfer; provided, that a written agreement documenting the transfer accommodate the application. Also, that the current permittee and proposed transferee of the permit show to the reasonable satisfaction of the authority that, upon or following the transfer, there will be no proposed changes which may affect the quantity and/or quality of storm water runoff. If the authority is not satisfied with any such showing by the current permittee and proposed transferee, the new owner or operator must apply for a new permit prior to participating in the operation of such project.

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

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

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

(2) A private residential development of less than one-acre, but whose activity is part of a larger common plan of development shall require a permit that will be

issued in conjunction with a residential building permit. This permit must include, at a minimum, the following information if it is not already covered in the building permit:

- a. Name, address, telephone number, and email address of the applicant;
- b. If the applicant is not the owner of the project and/or property, the name, address, telephone number, and email address of the owner of the project, the owner of the property on which the project is to be located, and the ground lessee of the property, if any, on which the land disturbing activities are to be conducted;
- c. A map or a plot showing the land on which the land disturbing activities will be conducted shall be submitted. The applicant should utilize the Alabama Handbook for Erosion Control, Sediment Control and Storm water Management on Construction Sites and Urban Areas to implement and maintain erosion control BMP's.

1 Multiple operators conducting land disturbing activities in a common plan of development may jointly submit an application and be covered by the same permit. An application requesting coverage for multiple operators must include a site plan clearly describing each operator's area(s) of operational control.

2 Each application for the issuance of a permit shall be accompanied by a nonrefundable fee of thirty dollars (\$30.00), for land disturbing activities associated with individual single family residences.

(3) Post-construction requirements shall be considered during the land disturbance permitting phase. Other post-construction requirements are listed in Article IV. Post-Construction Storm Water Management in Section 7 of the Ordinances.

Sec. 7-84. - Exceptions.

(a) The following land disturbing activities are excluded from the requirements of this article:

- (1) Any land change on property about which the owner of the property has submitted information to the authority proving, to the satisfaction of the authority, that such property does not discharge to the MS4.
- (2) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources. Immediately upon completion of emergency activity the responsible party shall install all control measures and initiate restoration/cleanup activities as required by this article.
- (3) Agriculture.
- (4) Silviculture.
- (5) Such minor land disturbing activities as home gardens, landscaping, home repairs, home maintenance work, minor additions to houses, the construction, maintenance or repair of accessory structures and other related activities which result in minor erosion.
- (6) Minor land disturbing activities, such as minor grading for driveways, yard areas and sidewalks, or individual connections for sewer services for single or two-family residences.
- (7) The construction, repair or rebuilding of railroad tracks.
- (8) Minor subsurface exploratory excavations under the direction of soils engineers, engineering geologists, or soil scientists.
- (9) The opening of individual burial sites in property which has been approved for such use by all necessary governmental authorities.

- (10) The construction of water wells or environmental monitoring wells.
- (11) All land disturbing activities conducted by entities under the jurisdiction and supervision of the PSC.

(b) Although not required to obtain a permit, persons engaged in excepted activities shall remain responsible for otherwise conducting such activities in accordance with the provisions of this article and any other applicable regulation or permit(s), including the proper control of sediment and discharges to the MS4.

Sec. 7-85. - Review and approval.

The review and approval process shall be as follows:

Before the commencement of any land-disturbing activity that affects one (1) acre or more, the owner of the land on which such activity shall be conducted, or their duly authorized agent, shall file with the authority copies of the ADEM NPDES NOI permit application or issued permit. Land disturbance activities occurring within impaired areas (303d. listed streams) must have an issued NPDES permit prior to any land disturbance activities.

- (1) An applicant's BMP plan will either be approved or disapproved by the authority within thirty (30) days of the day a complete application, BMP plan, applicable fee, and bonding requirement, if any, are filed with the authority.
- (2) If the BMP plan is disapproved, the authority will inform the applicant, in writing, of the reasons for its disapproval. If the applicant, on one or more occasions, revises the BMP plan or submits to the authority additional documents or information in connection with the BMP plan, the authority will make a written response to the applicant with respect to whether such revised BMP plan and/or additional documents and information have been approved or disapproved by the authority. All such additional responses will be made by the authority to the applicant within ten (10) days of the day such revised BMP plan or additional documents or information are submitted to the authority.
- (3) Should the authority fail to approve or disapprove any initial or revised BMP plans within forty-five (45) days of the day said BMP plans are submitted to the authority, the BMP plan shall be deemed approved and the applicant may commence land disturbing activities.
- (4) Payment of the applicable fee and bonding requirement, if any, by the applicant, coupled with the authority's approval of the application and BMP plan, shall result in issuance of a permit to the applicant.

Sec. 7-86. - Erosion and sediment control plan.

The erosion and sediment control plan filed with the authority shall include:

- (1) A natural resources map identifying soils, forest cover, water bodies and other natural resources to be protected. This map should be at a scale no smaller than 1" = 100'. Specific map requirements shall be stipulated by the authority.
- (2) 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.
- (3) All erosion and sediment control measures necessary to meet the objectives of this policy are required 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.

- (4) 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.
- (5) Provisions for the maintenance of ESC measures including easements.
- (6) A site drainage plan along with calculations supporting the design shall be submitted for all permanent structural BMP (i.e. detention ponds, outlet structures, etc.). The plan and calculations shall be certified by a registered professional engineer licensed by the State of Alabama.
- (7) Inspection schedule and reporting requirements as required by ADEM permit or the authority.
- (8) The development plan shall include strategies for inspection, operation, and maintenance of post-construction BMP's and shall be incorporated into permittee's pre-project approval, with a statement of inspection/maintenance responsibilities that are transferable to subsequent owners, operators, or HOA who will be responsible for perpetual maintenance of the common spaces, easements, drainage facilities, etc.
- (9) Any other pertinent information the authority deems as necessary to complete its review.

Any proposed modification to the erosion and sediment control plan shall be communicated within twenty-four (24) hours or next business day to the authority at which time the authority will determine if a full resubmittal is required or if the modification can be handled as a minor field change.

Sec. 7-87. - Erosion and sediment control criteria.

Criteria for the erosion and sediment control plan shall be as follows:

- (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 *BMP manual(s) approved by ADEM, and shall be adequate to prevent transportation of sediment from the site to the satisfaction of the authority. Cut and fill slopes shall be no steeper than 3:1, except as approved by the authority to meet other community or environmental objectives. Any cut and fill slope steeper than 3:1, as approved by the authority, shall be stabilized with geo-matting along with the appropriate method of grassing.
- (2) *Clearing and grading of natural resources*, such as forests and wetlands, shall not be permitted, except when in compliance with all other federal, state, and local regulations. Clearing techniques that retain natural vegetation and drainage patterns, as described in the BMP manual(s), shall be used to the satisfaction of the authority.
- (3) *Buffer/stream side management zone (SMZ)* Areas adjacent to water bodies that reduce volume and flow of surface runoff reducing sedimentation and are a BMP in the Clean Water Act. The area acts as a filter and promotes stable slopes and high water flows. A vegetated zone adjacent to a stream, wetland, or shoreline where development is restricted or controlled to minimize the effects of development. Buffer zones shall be a minimum of twenty-five (25) feet perpendicular from the "top-of-bank" on each side of the stream bank, creek, or waterway under "bank-full conditions". Buffers are applicable to any perennial or intermittent stream as indicated on the United States Geological Survey 7.5 Minute Series topographic map (latest revision) and all water bodies including lakes, ponds, and wetlands. Any area within this buffer shall not be cleared or graded unless written authorization is obtained from the authority. Utilization or reinforcement of existing vegetation is preferred. However, where improvements are required, sodding, plugging, use of stockpiled vegetation, willows, tree stock or seeding is acceptable where approved by the authority.
- (4) *Clearing*, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized. Phasing shall be required on all sites disturbing greater than ten (10)

acres, with the size of each phase to be established at plan review and as approved by the authority.

(5) *Erosion control requirements* shall include but are not limited to the following:

- a. Disturbed or exposed soils that have not been worked in thirteen (13) days shall be stabilized with seeding and mulch or covered at the end of each work day.
- b. Special techniques that meet the design criteria outlined in the BMP manual(s) on steep slopes or in drainage ways shall be used to ensure stabilization.
- c. Soil stockpiles should be protected from erosion throughout the site, stabilized, or covered at the end of each workday and should be seeded and mulched after thirteen (13) idle days.
- d. Techniques should be used to prevent the blowing of dust or sediment from the site.
- e. Techniques should be used that divert upland runoff around disturbed slopes or stockpiles.

(6) *Sediment control requirements* shall include but are not limited to the following:

- a. Settling basins, sediment traps, or perimeter controls.
- b. Settling basins that are designed in a manner that allows adaptation to provide long-term storm water management, if required by the authority.
- c. Protection for adjacent properties by the use of a vegetated buffer strip in combination with perimeter controls.

(7) *Waterway and watercourse protection requirements* shall include but are not limited to the following:

- a. The installation of a temporary watercourse crossing. If a watercourse will be crossed regularly during construction the authority may require a temporary crossing to be constructed in order to prevent streambed damage and or erosion. Watercourse crossings shall be constructed to allow movement of aquatic life.
- b. Stabilization of the watercourse channel before, during, and after any in-channel work.
- c. All on-site storm water conveyance channels designed according to the criteria outlined in the BMP manual(s).
- d. Stabilization adequate to prevent erosion located at the outlets of all pipes and paved channels.

(8) *Construction site access requirements* shall include but are not limited to the following:

- a. Temporary construction access, as defined by the authority, at all sites.
- b. Other measures required by the authority in order to ensure that sediment is not tracked onto public streets by construction vehicles or washed into storm drains.

(9) *Post development runoff rate.* Except as otherwise provided by other regulations the rate of storm water runoff from any development resulting from the ten-year rainfall occurring within the space of one (1) hour shall not exceed the predevelopment storm water runoff rate for an equivalent event.

(10) *Finished floor elevations.* All finished floor elevations of buildings, garages, carports, and other permanent structures shall be one (1) foot or higher above the expected 100-year flood elevation. Ground elevation ten (10) feet from

a building shall be six (6) inches or more below floor elevation and slope away from the building.

Sec. 7-88. - Responsibilities of the permittee, property owner, and/or developer.

- (a) Once received from the authority, the BMP plan bearing the stamp of approval of the authority, along with the permittee's NOI, ADEM NPDES permit, any necessary building or other permits, and/or other required documentation shall be maintained at the site during the progress of the work and until a notice of termination has been filed with ADEM, unless impracticable. If impracticable, the records may be maintained at another reasonable location, so long as they can be produced to the authority within forty-eight (48) hours of a request for said records.
- (b) The permittee, agent, contractor, or other representative of same, shall notify the authority at least two (2) working days before the start of construction, unless good cause exists for contacting the authority within a lesser timeframe.
- (c) Clearing, except that necessary to establish erosion and sediment controls, shall not begin until all erosion and sediment controls have been installed and have been stabilized.
- (d) The person engaged in or conducting land disturbing activities shall be responsible for maintaining all temporary and permanent erosion and sediment controls during the development of a site. Grading, and erosion and sediment controls shall meet the design criteria set forth in the most recent version of the Alabama Handbook.
- (e) To the maximum extent practicable, pollutants in runoff water must be minimized by using appropriate BMPs.
- (f) Grading and erosion and sediment controls shall be designed and maintained to minimize erosion and the discharge of pollutants to the MS4 to the maximum extent practicable.
- (g) Adequate protective measures shall be provided for the containment of hazardous substances and any other materials which may pollute the MS4, including petroleum products, lubricants and paint.
- (h) When land disturbing activities are finished and stable vegetative control measures or other permanent controls have been established on all remaining exposed soil, the permittee shall notify the authority and request a final inspection. The authority will 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 authority written notice of such additional measures will be delivered to the permittee, and the permittee shall continue to be covered by the permit until a final and complete inspection is made and the authority approves the project as having been satisfactorily completed. After the authority has approved operational status, Post-construction stipulations and inspections will apply.

Sec. 7-89. - Inspection.

The inspection process shall be carried out as follows:

- (1) Plans for grading, stripping, excavating, and filling work bearing the stamp of approval of the authority shall be maintained at the site during the progress of the work.
- (2) The permittee shall notify the authority at least two (2) working days before the following:
 - a. Start of construction.
 - b. Installation of sediment and erosion measures.
 - c. Completion of site clearing.
 - d. Completion of rough grading.
 - e. Completion of final grading.

- f. Close of the construction season.
- g. Completion of final landscaping.

(3) The permittee or his/her agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved ESC plan(s). The measures shall be inspected at a minimum after every qualifying rain event (.75" or more) and monthly. The qualified credentialed inspection program will be recognized by the authority. The purpose of such inspections will be to determine the overall effectiveness of the ESC plan and the need for additional control measures. All inspections shall be documented in written form, kept on-site, and submitted to the authority as required and requested.

(4) The authority or its designated agent shall retain the right to enter the property of the applicant as deemed necessary to address any complaint and to ensure the validity of the reports filed under item (3).

(5) All detention/retention ponds approved by the authority will have complete design data on file with the authority and will be subject to at least an annual inspection to ensure that they are functioning to their original design criteria. Specific items to be inspected and approved by the authority shall include, but are not limited to, the following: vegetative cover, erosion, sediment, debris, fencing (if applicable), animal/insect control, outlet structure, and inlets.

Sec. 7-90. – Corrective Action.

Upon observing evidence of erosion and/or sediment leaving the disturbed site or upon discovery of illicit discharges, or other deficiencies the authority will issue a verbal warning to the developer, subsequent landowner, or dually authorized representative, requiring the deficiencies to be corrected. Deficiencies noted must be corrected within seventy-two (72) hours. (If the deficiencies are in a highly sensitive area, as deemed by the authority, the corrective action must occur within twenty-four (24) hours of receipt of the notification). If corrective action has not occurred within the specified time, the Authority will issue a written notice of violation, whereas the corrective action must occur within 24 hours of the receipt of notification. If the corrective action does not occur within the specified time, the authority will issue a stop work order and reserves the right to take all necessary steps for reestablishment of the measures with the cost incurred billed to the responsible party. All such expenses are due immediately upon receipt. Nonpayment of such expenses may result in further penalties (see section IX [7-91]).

Sec. 7-91. - Enforcement.

(a) This article authorizes the following storm water and non-storm water discharges: Discharges authorized by, and in compliance with, any separate NPDES permit, discharges from fire-fighting activities; fire hydrant flushing's; waters used to wash vehicles where detergents are not used; water used to control dust; potable water including uncontaminated water line flushing's not associated with hydrostatic testing; routine external building wash down associated with construction that does not use detergents; pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used; uncontaminated air conditioning or compressor condensate associated with temporary office trailers and other similar buildings; uncontaminated ground water or spring water; foundation or footing drains where flows are not contaminated with process materials such as solvents; and landscape irrigation.

(b) All discharges not explicitly authorized by this article are prohibited. Any discharge to the MS4 made in violation of this article or of any condition of a permit issued pursuant to this article shall be subject to correction and/or abatement in accordance with applicable law.

(c) The state's phase II MS4 NPDES permit allows the authority to rely upon ADEM for the enforcement of certain violations of this article. The authority hereby expresses its intent to rely upon ADEM for enforcement of violations of this article, as allowed [in] the state's phase II MS4 NPDES if and only if the enforcement by the authority becomes futile and a not effective method of resolving a violation of the current ordinances, and thus agrees to promptly notify

ADEM upon observing evidence of any known or suspected violations. Furthermore, no enforcement action will be taken by the authority for a violation of the terms of this article if any of the following has occurred:

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

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

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

(e) In the event of any accidental discharge of a hazardous substance or a significant spill of a hazardous substance to the MS4 which could constitute a threat to human health or the environment, the permittee of the site shall give notice to the authority and the local emergency management authority in the same manner and within the same time as is required by state regulations for notice to ADEM.

Absent a compelling public interest to the contrary, it shall not be a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the business or activity of the site, or any project or facility thereon, to maintain water quality and minimize any adverse impact that the discharge may cause.

(f) Whenever the authority finds that any person is in violation of any provision of this article and fails to take corrective action within the specified time, the authority may proceed with the following enforcement action: **(Sec 7-90)**

(1) *Stop-work order; revocation of local approvals.* 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 policy. In the event that any person holding a permit or approval pursuant to this policy violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, environment, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the authority may suspend or revoke the said approval.

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

(3) *Cease and desist orders.* When the authority finds that any person has violated, or continues to violate, this article or any order issued under this article in such a manner as to materially adversely affect the health, welfare, environment, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood; the authority may issue an order to such person to cease and desist all land disturbance activities immediately, and direct such person in violation of this article to:

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

(g) It shall be unlawful for any person to:

- (1) Violate any provision of this article;
- (2) Violate the provisions of any permit issued pursuant to this article; or
- (3) Fail or refuse to comply with any lawful notice to abate or take corrective action issued by the authority.

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

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

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

The authority may also initiate civil proceedings in any court of competent jurisdiction seeking monetary damages for any damages caused to public storm water facilities by any person, and may seek injunctive or other equitable relief to enforce compliance with the provisions of this article or to force compliance with any lawful orders of the authority.

DIVISION 3. - PROVISIONS

Sec. 7-92. - Variances and appeals.

The authority may grant a variance from the requirements of this policy if there exist exceptional circumstances applicable to a site such that strict adherence to the provisions of this policy will result in unintended consequences. The developer shall prepare a written request for a variance stating the specific variance sought and the reasons, with supporting data, for granting such variance. This request shall include descriptions, drawings, calculations, and any other information necessary to evaluate the proposed variance. The authority shall review the submitted material and make a determination within fifteen (15) working days. There shall be no appeal process for the variance request. The authority shall be the final arbiter of the variance request.

Sec. 7-93. - Liability.

Neither the approval of an ESC plan under the provisions of this policy nor the compliance with the provisions under this policy shall relieve any person of the responsibility for damage to any person or property otherwise imposed by law, nor shall it impose any liability upon the authority for damage to any person or property.

Sec. 7-94. - Severability.

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

Secs. 7-95—7-100. - Reserved.

Section 2. **Repealer Clause.** All former ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance or the article hereby adopted are repealed.

Section 3. **Severability Clause.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional by any court of competent jurisdiction, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 4. **Effective Date.** This ordinance and the article hereby adopted shall become effective and enforced immediately upon its passage and publication as required by law.

Section 5. **Publication.** The City Clerk of the City of Opelika, Alabama is hereby authorized and directed to cause this Ordinance to be published one (1) time in a newspaper of general circulation published in the City of Opelika, Lee County, Alabama.

Section 6. **Codification.** Codification of this ordinance in the *Code of Ordinances* of the City of Opelika is hereby authorized and directed.

ADOPTED AND APPROVED this the ____ day of _____, 2017.

PRESIDENT PRO-TEM OF THE CITY
COUNCIL OF THE
CITY OF OPELIKA, ALABAMA

ATTEST:

CITY CLERK

TRANSMITTED TO MAYOR on this the ____ day of _____, 2017.

CITY CLERK

ACTION BY MAYOR

APPROVED this the ____ day of _____, 2017.

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO. 109-17-ORD

Amend City Code, Chapter 7 Article IV, Post Construction Stormwater Mgt. - 2Nd Reading.

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE *CODE OF ORDINANCES* OF THE
CITY OF OPELIKA, BY REPEALING ARTICLE IV OF CHAPTER 7--“POST-
CONSTRUCTION STORM WATER MANAGEMENT” IN ITS ENTIRETY AND
SUBSTITUTING IN LIEU THEREOF A NEW ARTICLE IV ENTITLED “POST-
CONSTRUCTION STORMWATER MANAGEMENT”**

WHEREAS, land development projects and other land use conversions, and their associated changes to land cover, permanently alter the hydraulic response of local watersheds and increase stormwater run-off rates and volumes, which in turn increase flooding, stream channel erosion and sediment transport and deposition; and

WHEREAS, land development projects and other land use conversions also contribute to increased non-point source pollution and degradation of receiving waters; and

WHEREAS, the impacts of post-development stormwater run-off quantity and quality can adversely affect public safety, public and private property, drinking water supplies, recreation, fish and other aquatic life, property values and other uses of lands and waters; and

WHEREAS, these adverse impacts can be controlled and minimized through the regulation of stormwater run-off quantity and quality from new development and redevelopment by the use of both structural facilities as well as non-structural measures; and

WHEREAS, localities in the State of Alabama are required to comply with a number of both State and Federal laws, regulations and permits which require a locality to address the impacts of post-development stormwater run-off quality and non-point source pollution; and

WHEREAS, the City of Opelika, Alabama (the “City”) does enact this post-construction stormwater management ordinance to provide for and promote compliance by the City with Federal and State laws governing the discharge of pollutants from the MS4 and to provide for and promote compliance with the City’s NPDES permit, issued by the Alabama Department of

Environmental Management (“ADEM”); and

WHEREAS, the City does enact this ordinance to provide reasonable guidance for the regulation of post-development stormwater run-off in order to control and minimize increases in stormwater run-off rates and volumes, post-construction soil erosion and sedimentation, stream channel erosion and non-point source pollution associated with post-development stormwater run-off.

NOW, THEREFORE, BE IT ORDAINED by the City Council (the “Council”) of the City of Opelika, Alabama (the “City”) as follows:

Section 1. Replacement of Article IV of Chapter 7 of the Code of Ordinances; adoption of Section 7-101 through Section 7-111. That current Article IV of Chapter 7 of the *Code of Ordinances* of the City of Opelika, Alabama, entitled “Post-Construction Stormwater Management”, is hereby repealed in its entirety and replaced with new Article IV entitled “Post-Construction Stormwater Management”, consisting of sections 7-101 through 7-111, which said article shall read as follows:

ARTICLE IV. - POST-CONSTRUCTION STORM WATER MANAGEMENT

Sec. 7-101. - Purpose.

Post-construction storm water management refers to the activities that take place after construction occurs, and includes structural and non-structural controls including low-impact development and green infrastructure practices to obtain permanent storm water management over the life of the property’s use.

As required by the city's phase II municipal separate storm sewer (MS4) national pollutant discharge elimination system (NPDES) permit, issued by the Alabama Department of Environmental Management (ADEM), the city must develop, implement, and enforce a post-construction storm water management program designed to reduce the discharge of pollutants from its MS4 to the "maximum extent practicable," to protect water quality and to satisfy the appropriate water quality requirements of the Clean Water Act (CWA). This article is therefore enacted to preserve, protect and promote the health, safety and welfare of the citizens of the city, through the reduction, control and prevention AND OPERATION AND MAINTENANCE OF STRUCTURES FOR THE MANAGEMENT AND the discharge of WATER WITH POTENTIAL POLLUTANTS from newly developed and redeveloped sites to the MS4. It is the expressed intent of the city in enacting this article to provide for and promote compliance by the city with federal and state laws governing the discharge of pollutants from the MS4 and to provide

for and promote compliance with the city's NPDES permit, issued by ADEM pursuant to its authority under the CWA.

Sec. 7-102. - Definitions.

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

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

ADEM: The Alabama Department of Environmental Management. The state's regulatory agency created under Code of Ala. 1975, §§ 22-22A-1, et seq., responsible for administering and enforcing the storm water laws of the United States of America and the state. Also known as NPDES rules.

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 be potentially harmful or injurious to human health, welfare, safety or property or to biological productivity, diversity or stability, or which would unreasonably interfere with the enjoyment of life or property.

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

Alabama Handbook: The most recent edition of the Alabama Handbook for Erosion Control, Sediment Control and Storm water Management on Construction Sites and Urban Areas authored by the Alabama Soil and Water Conservation Committee, Montgomery, Alabama.

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

Authority: The definition of "authority" will be defined by each participating entity, i.e. the City of Opelika, The City Engineer is hereby appointed to administer and implement the provisions of this article. AWPCA: The Alabama Water Pollution Control Act, Code of Ala. 1975, §§ 22-22-1, et seq., and the Alabama Environmental Management Act, Code of Ala. 1975, §§ 22-22A-1, et seq., both as amended, and regulations promulgated thereunder.

Basin:

- (1) The surface of the area tributary to a stream or lake.
- (2) Space above or below ground capable of retaining or detaining water or debris.

BMPs/Best management practices: Activities, prohibitions of practices, maintenance procedures and management practices, designed and implemented to prevent or reduce the discharge of pollutants to the MS4. Nonstructural BMPs are strategies implemented to control storm water runoff that focus on pollution prevention such as alternative site design, zoning and ordinances, education, and good housekeeping measures. Structural BMPs are engineered devices to control, treat, or prevent storm water runoff pollution. BMPs also include treatment requirements, operating procedures, and practices, to control facility site runoff, spillage or leaks, sludge or waste disposal or drainage from raw material storage and construction sites.

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

Buffer/stream side management zone (SMZ): Areas adjacent to water bodies that reduce volume and flow of surface runoff reducing sedimentation and are a BMP in the Clean Water Act. The area acts as a filter and promotes stable slopes and high water flows. A vegetated zone adjacent to a stream, wetland, or shoreline where development is restricted or controlled to minimize the effects of development. Buffer zones shall be a minimum of twenty-five (25) feet perpendicular from each side of the stream bank, creek, or waterway under "bank-full conditions". Buffers are applicable to any perennial or intermittent stream as indicated on the United States Geological Survey 7.5 Minute Series topographic map (latest revision) and all water bodies including lakes, ponds, and wetlands. Any area within this buffer shall not be cleared or graded unless written authorization is obtained from the authority. Utilization or reinforcement of existing vegetation is preferred. However, where improvements are required, sodding, plugging, use of stockpiled vegetation, willows, tree stock or seeding is acceptable where approved by the authority.

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

Contour: A line of equal elevation above a specified datum. The datum most commonly used is mean sea level having or representing equal elevations.

Community water/Waters of the US: Any or all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells, and other bodies of natural or artificial surface or subsurface water into which the MS4 outfalls flow.

CWA: The Federal Clean Water Act, 33 U.S.C. § 1251, et seq., which was formerly referred to as the Federal Water Pollution Control Act and Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 6-483 and Public Law 97-117, 33 U.S.C. § 1251-1387.

Detention pond/Retention pond: A temporary or permanent storm water structure whose primary purpose is to temporarily store storm water runoff and release the stored runoff at a non-erosive or controlled rates.

Development: The process of constructing, improving or adding buildings or facilities to an area of land in its natural state for the purpose of commercial, industrial, residential, retail or any other commercial use that requires the disturbance of said land.

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 emerging from the pipe, conduit or channel is usually expressed as cubic feet per second, gallons per minute or million gallons per day. Set out in Alabama Administrative Code Section 335-6-6-.02.

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

Engineer: A person currently licensed by the state board of registration for professional engineers and land surveyors.

EPA: The environmental protection agency.

Erosion: Process by which land surface is worn away by the action of wind or water also known as geologic weathering.

Erosion and sediment control plan (ESC plan): A site specific drawing or set of drawings prepared by a qualified credentialed professional (QCP) utilizing approved BMP to control erosion and sediment for a development or land disturbance.

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

HOA: In the United States, a homeowner association (HOA) is an entity formed by a real estate developer, comprised of a board of home owners in the development, for the purpose of marketing, managing, and selling of homes and lots in a residential subdivision. Typically these boards are responsible for the perpetual operation and maintenance of grounds, common space features, and drainage systems.

Illicit connection: Any man-made conveyance connecting an illicit discharge directly to the MS4.

Illicit discharge: Any discharge that is not composed entirely of storm water, except discharges pursuant to an NPDES permit and discharges that are specifically excepted from this policy. Not authorized or not permitted.

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

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

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

MS4 Cities: Cities with populations identified by the US EPA/Census that must comply with a state water quality program under annual permits granted by the state environmental agency. Cities shall have jurisdiction over its corporate limits and all shall comply with those required permits and statutes. Cities shall have lawful ordinances, covenants and codes to enforce full compliance; nationally known as NPDES.

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

NON-point source: is considered discharge resulting from land runoff, precipitation, atmospheric deposition, drainage, seepage or hydrologic modification. Nonpoint source (NPS) pollution, unlike pollution from industrial and sewage treatment plants, comes

from many diffuse sources. NPS pollution is caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into lakes, rivers, wetlands, coastal waters and ground waters.

NPDES: National pollutant discharge elimination system. NPDES shall mean the national program of issuing, modifying, revoking, etc., permits under Sections 307, 318, 402, and 405 of the CWA, as well as the state permitting program implemented under the CWA and the AWPCA. NPDES shall be enforced in those MS4 identified cities.

Outfall: A source (meaning any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, 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 water runoff at the point of a discharge to waters of the United States of America. It is considered the point it discharges into the streams identified by (NHD) National Hydrologic Database.

Permit: Any permit issued pursuant to this article, permitting discharges to the MS4 under the NPDES.

Permit by rule: The approval of a regulated activity without a formal application and approval process, under the condition that the activity is performed in compliance with all applicable rules. Any failure to comply with applicable rules would subject that activity to penalties for violation and normal application and approval requirements.

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

Point sources: of water pollution are described by the CWA as "any discernible, confined, and conveyance from which pollutants are or may be discharged." These include pipes or man-made ditches from stationary locations such as sewage treatment plants, factories, industrial wastewater treatment facilities, septic systems, ships, and other sources that are clearly discharging pollutants into water sources.

Pollutant: Includes but is not limited to, the pollutants specified in Section 22-22-1(b) (3) of the AWPCA and any other effluent characteristics specified in a permit.

Pollutant loading: The amount of a pollutant entering the MS4 storm water system. See TMDLs.

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

inspections.

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

QCI: Qualified credentialed inspection professional (QCI). Inspection professional hired by the contractor to monitor BMP and ensure compliance with this policy. The inspector certification program shall be as approved by ADEM and refreshed annually.

QCP: Qualified credentialed professional: A certified professional in erosion and sediment control (CPESC) as determined by the Soil and Water Conservation Society or the International Erosion Control Association (IECA). In addition, other registered or certified professionals such as a professional engineer, 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 QCP must be in good standing with the authority granting the registration and the requirements of Alabama Administrative Code Chapter 335-6-12. The QCP 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 BMP or other pollution control devices (silt fences, erosion control fabrics, 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 standard practices and permit requirements. A professional engineer (PE) registered in the State of Alabama must certify the design and structural practices such as spill prevention control and counter-measures (SPCC) plan, containment structures, dam construction, etc.

Redevelopment: any land or property where the use of new facilities occurs with the renovation or replacement of existing facilities on a site that has any previously existing uses.

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

Sedimentation: Process by which eroded material is transported and deposited by action of water, wind, ice and gravity.

Settling basin: A temporary sediment trap or ponding area formed by excavation or construction of embankments where runoff is detained and sediment can settle.

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 in one ownership, and any combination of tracts, lots or parcels of land which are contiguous and 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.

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

Storm water management: The incorporation of a variety of activities and equipment into a plan to address concerns associated with storm water for the purpose of preventing pollution, improving water quality, keeping pollutants out of the runoff, and the implementation of BMPs.

Storm Water Management Program: A program which covers the duration of the NPDES permit. The program shall include a comprehensive planning process which involves public participation and where necessary, intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent practicable, using management practices, control techniques, system design and engineering methods with other provisions which are appropriate. Aka SWMP Plan.

Stream: A flow course or flow way of running water, usually flowing in a particular direction in a definite channel and discharging into some other flow course of running water or body of water. Recognized streams within the MS4 boundaries are referred to the NHD stream.

TMDL: Total maximum daily load is a calculation of the maximum amount of pollutant that a water body can receive and still safely meet water quality standards.

Structural controls: Measures incorporated into existing storm water drainage systems or newly constructed systems to prevent or to 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 flow rates and assist to trap or eliminate pollutants that might otherwise be carried by surface runoff.

Turbidity: A condition in water or wastewater caused by the presence of micro or small suspended matter, resulting in the scattering and absorption of light rays. A measure of fine suspended matter in liquids. Given in NTU's or JTUs. NTUs is the standard.

US-EPA: United States Environmental Protection Agency. Sponsored and passed the 1972 Clean Water Act.

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 telecommunications service.

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

Vegetative control measures: The establishment of vegetative ground cover that shields the soil surface from raindrop impact and the scouring effects from overland storm water flow.

Watercourse: A defined channel with bed and banks within which water flows, either continuously or in season. A watercourse is continuous in the direction of flow and may extend laterally beyond the definite banks to include overflow channels contiguous to the ordinary channel. The term does not include artificial channels such as canals and drains, except natural channels trained or restrained by the works of man, nor does it include depressions or swales through which surface or errant waters pass.

10-year rainfall event: The rainfall event having a ten (10) percent chance of being equaled or exceeded in any given year (i.e. 10-year, one-hour rainfall event is approximately two and three-quarter (2.75) inches).

25-year rainfall event: The rainfall event having a four (4) percent chance of being equaled or exceeded in any given year (i.e. 25-year, one-hour rainfall event is approximately two and three-quarter (2.75) inches).

100-year rainfall event: The rainfall event having a one (1) percent chance of being

equaled or exceeded in any given year (i.e. 100-year, one-hour rainfall event is approximately three and nine-tenths (3.9) inches).

100-year flood elevation: The boundary delineated by the crest elevations of the 100-year flood which occurs every 100 years on the mean or average.

Sec. 7-103. - Administration.

The authority shall enforce the provisions of this policy. Whenever "authority" is used in this policy it shall include the authorized agent of the entity. The City of Opelika shall designate the Engineering Department to act as the authority on behalf of the City of Opelika.

Sec. 7-104. - Post-construction requirements for new development and redevelopment.

*Design of post-construction measures: (Reference "ARTICLE III. - EROSION AND SEDIMENT CONTROL" for permitting process)

(a) The developer, landowner, or authorized representative shall develop and implement post-construction strategies for new development and redevelopment that include, at a minimum, a combination of structural and/or non-structural BMPs designed to require, to the maximum extent practicable, that the volume and velocity of predevelopment storm water runoff is not significantly exceeded as determined by the authority. Said combination of post-construction strategies shall be designed to function during a rainfall with intensity up to that of a two (2) year twenty-four (24) hour storm event. This section shall require that responsible maintenance is performed and the responsibility is assigned to the entity that develops, owns, or manages said grounds and is transferable to the next owner, tenant, or entity or HOA for responsible perpetual care. The authority shall be provided a legally enforceable agreement that assigns permanent responsibility for post BMP maintenance of structural or treatment control management practices.

(b) Post-construction strategies may be incorporated into permittee's BMP plan filed with the authority or in a separate document. Said post-construction strategies shall be reviewed, approved, and updated pursuant to the same requirements as those of the permittee's BMP plan. The plan shall include strategies for inspection, operation, and maintenance and shall be incorporated into permittee's pre-project approval, with a statement of inspection/maintenance responsibilities that are transferable to subsequent owners, operators, or HOA who will be responsible for perpetual maintenance.

(c) Permittee's post-construction strategies must show proposed final site conditions and describe how the volume and velocity of storm water leaving the site will be managed after construction is complete to require, to the maximum

extent practicable, that it does not significantly exceed the volume and velocity of pre-construction storm water runoff.

(d) Upon completion, permittee shall file with the authority a certified copy of as-built drawings of any permanent post-construction strategies implemented at the site. Such filing shall demonstrate, to the maximum extent practicable, that final post-construction site conditions comply with subsection (a). The authority may also require permittee to provide a method of funding to be established or provided to ensure the long-term maintenance of any post-construction BMPs.

Sec. 7-105. - Inspections.

(a) The Permittee shall require the performance of post-construction inspections, at a frequency described in the current Opelika SWMP, to confirm that post-construction BMP's are functioning as designed. The permittee must carry out all applicable inspection requirements set out in ADEM's applicable regulations and NPDES construction general permit. The Permittee shall require the developer/owner/operator to keep records of post-construction BMP inspections, maintenance activities for a period of five (5) years and make them available to the authority upon request.

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

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

representative.

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

Sec. 7-106. - Corrective action.

(a) Any poorly functioning erosion and sediment controls, post-construction strategies, non-compliant discharges, or any other deficiencies observed during inspections conducted pursuant to section 7 shall be corrected as soon as possible, but not to exceed five (5) days of the inspection, unless impracticable.

(b) The permittee shall take all reasonable steps to remove, to the maximum extent practicable, pollutants deposited offsite or in any MS4 conveyance structure.

Sec. 7-107. - Enforcement.

(a) This article authorizes the following storm water and non-storm water discharges: Discharges authorized by, and in compliance with, any separate NPDES permit, discharges from fire-fighting activities; fire hydrant flushing's; waters used to wash vehicles where detergents are not used; water used to control dust; potable water including uncontaminated water line flushing's not associated with hydrostatic testing; routine external building wash down associated with construction that does not use detergents; pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used; uncontaminated air conditioning or compressor condensate associated with temporary office trailers and other similar buildings; uncontaminated ground water or spring water; foundation or footing drains where flows are not contaminated with process materials such as solvents; and landscape irrigation.

(b) All discharges not explicitly authorized by this article are prohibited. Any discharge to the MS4 made in violation of this article or of any condition of a permit issued pursuant to this article shall be subject to correction and/or abatement in accordance with applicable law.

(c) The state's phase II MS4 NPDES permit allows the authority to rely upon ADEM for the enforcement of certain violations of this article. The authority hereby expresses its intent to rely upon ADEM for enforcement of violations of this article, as allowed [in] the state's phase II MS4 NPDES if and only if the enforcement by the authority becomes futile and a not effective method of resolving a violation of the current ordinances, and thus agrees to promptly notify

ADEM upon observing evidence of any known or suspected violations. Furthermore, no enforcement action will be taken by the authority for a violation of the terms of this article if any of the following has occurred:

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

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

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

(e) In the event of any accidental discharge of a hazardous substance or a significant spill of a hazardous substance to the MS4 which could constitute a threat to human health or the environment, the permittee of the site shall give notice to the authority and the local emergency management authority in the same manner and within the same time as is required by state regulations for notice to ADEM.

Absent a compelling public interest to the contrary, it shall not be a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the business or activity of the site, or any project or facility thereon, to maintain water quality and minimize any adverse impact that the discharge may cause.

(f) Whenever the authority finds that any person is in violation of any provision of this article and fails to take corrective action within the specified time, the authority may proceed with the following enforcement action:

- (1) Stop-work order; revocation of local approvals. 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 policy. In the event that any person holding a permit or approval pursuant to this policy violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, environment, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the authority may suspend or revoke the said approval.

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

(3) Cease and desist orders. When the authority finds that any person has violated, or continues to violate, this article or any order issued under this article in such a manner as to materially adversely affect the health, welfare, environment, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood; the authority may issue an order to such person to cease and desist all land disturbance activities immediately, and direct such person in violation of this article to:

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

(g) It shall be unlawful for any person to:

- (1) Violate any provision of this article;
- (2) Violate the provisions of any permit issued pursuant to this article; or
- (3) Fail or refuse to comply with any lawful notice to abate or take corrective action issued by the authority.

Such person shall be guilty of a criminal offense; and each day of such violation, failure or refusal to comply with this article shall be deemed a separate offense and punishable accordingly. Any person found to be in

violation of any of the provisions of this article may be punished by a fine of not more than five hundred dollars (\$500.00) and/or up to one hundred eighty (180) days in jail.

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

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

The authority may also initiate civil proceedings in any court of competent jurisdiction seeking monetary damages for any damages caused to public storm water facilities by any person, and may seek injunctive or other equitable relief to enforce compliance with the provisions of this article or to force compliance with any lawful orders of the authority.

Sec. 7-108. - Variances and appeals.

The authority may grant a variance from the requirements of this article if there exist exceptional circumstances applicable to a site such that strict adherence to the provisions of this article will result in unintended consequences. The applicant shall prepare a written request for a variance stating the specific variance sought and the reasons, with supporting data, for granting such variance. This request shall include descriptions, drawings, calculations, and any other information necessary to evaluate the proposed variance. The authority will review the submitted material and make a written determination to approve or disapprove the variance within ten (10) working days after receipt of such a request. There shall be no appeal process for the variance request. The authority is the final arbiter of the variance request.

Sec. 7-109. - Liability.

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

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

article. Nothing herein shall be construed to expand the liability of the city or its officials, employees, agents or attorneys nor shall it create any additional, further, different or expanded claim or cause of action.

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

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

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

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

Sec. 7-110. - Severability.

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

Sec. 7-111. - Compatibility with other permit and ordinance requirements.

- (a) It is intended that this article be construed to be consistent with previously adopted articles of this chapter.
- (b) The requirements of this article shall be considered minimum requirements and where any provision of this chapter imposes restrictions different from those imposed by any other ordinance, rule or regulation or other provision of law, whatever provisions are more restrictive or impose higher restrictive standards for human health or the environment shall be considered to take precedence.

Section 2. **Repealer Clause.** All former ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance or the article hereby adopted are repealed.

Section 3. **Severability Clause.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional by any court of competent jurisdiction, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 4. **Effective Date.** This ordinance and the article hereby adopted shall become effective and enforced immediately upon its passage and publication as required by law.

Section 5. **Publication.** The City Clerk of the City of Opelika, Alabama is hereby authorized and directed to cause this Ordinance to be published one (1) time in a newspaper of general circulation published in the City of Opelika, Lee County, Alabama.

Section 6. **Codification.** Codification of this ordinance in the *Code of Ordinances* of the City of Opelika is hereby authorized and directed.

ADOPTED AND APPROVED this the ____ day of _____, 2017.

PRESIDENT PRO-TEM OF THE CITY
COUNCIL OF THE
CITY OF OPELIKA, ALABAMA

ATTEST:

CITY CLERK

TRANSMITTED TO MAYOR on this the ____ day of _____, 2017.

CITY CLERK

ACTION BY MAYOR

APPROVED this the ____ day of _____, 2017.

MAYOR

ATTEST:

CITY CLERK