

AGENDA
JACKSON MUNICIPAL REGIONAL PLANNING COMMISSION
CITY HALL – GEORGE A. SMITH MEETING ROOM
FIRST FLOOR – 109 EAST MAIN STREET – SUITE 107
DECEMBER 6, 2023 – 3:00 P.M.

- I. CALL TO ORDER/DETERMINATION OF QUORUM
- II. APPROVAL OF MINUTES FROM THE NOVEMBER 1, 2023 MEETING
- III. SUBDIVISIONS
 - 1. Consideration of a final plat for Epperson Place Section 1, comprising 20 lots and 2 common areas on 7.93± acres in a RS-1 (Single Family Residential) District, submitted by Surveying Services, Inc. on behalf of K&L Properties
 - 2. Consideration of a final plat for Shiloh Springs Section 13B, comprising 10 lots on 4.81± acres and Section 14B, comprising 14 lots and 1 common area on 8.96± acres in a RS (Single Family Residential) District, submitted by Surveying Services, Inc. on behalf of Jerry Winberry
- IV. DESIGN REVIEW
 - 1. Consideration of a design review application for a new fence, proposed to be located at 418 East Baltimore Street, submitted by James Lawrence III
- V. REVISIONS TO RULES AND REGULATIONS
 - 1. Consideration of approval of revisions to Rules and Regulations for the Control of Soil Erosion and Stormwater and Rules and Regulations for the Control of Illicit Discharges to the City Storm Sewer System
- VI. OTHER BUSINESS
 - 1. Any other business properly presented
- VII. ADJOURN

MINUTES
JACKSON MUNICIPAL REGIONAL PLANNING COMMISSION
CITY HALL – GEORGE A. SMITH MEETING ROOM
FIRST FLOOR – 109 EAST MAIN STREET – SUITE 107
NOVEMBER 1, 2023—3:00 P.M.

Members Present: Wayne Arnold, Vice Chair
Mayor Scott Conger
Charles Adams
Andrew Long
Councilwoman Marda Wallace

Members Absent: Jerry Day, Chair
Mandy White
Janna Hellums
Pat Ross

Staff Present: Stan Pilant, Director of Planning

The meeting was called to order upon Vice Chair Wayne Arnold determining that a quorum was present.

The minutes of the October 4, 2023 meeting were presented and a call to vote on approval of the minutes as presented was put forth. Hearing no objections, the motion to approve the minutes passed unanimously.

Consideration of a request to rezone property located west of Anglewood Drive from RS-1 (Single Family) District to RS-2 (Single Family) District, comprising 41.821 acres, more or less, submitted by Graves Partners -- Mr. Pilant presented the rezoning request to the Planning Commission. Using a location map, he explained the location of the site and the surrounding uses in the area. The applicant is requesting to rezone the property to continue single family development.

The Planning Staff recommended approval of the rezoning request since it preserves the single-family character of the subdivision and allows for a more efficient use of the land.

A motion was made by Charles Adams, seconded by Andrew Long to recommend approval of the rezoning request to the Jackson City Council, as recommended by the staff. Motion passed unanimously.

Consideration of a request to rezone property located at Ashport Road from RS-2 (Single Family) District to RS-2/PRD (Single Family/Planned Residential Development) District, comprising 40.2 acres, more or less, submitted by Shane McAlexander on behalf of The Crossings Partners -- Mr. Pilant presented the rezoning request to the Planning Commission. Using a location map, he explained the location of the site and the surrounding uses in the area.

The applicant is requesting to rezone the property to develop an upscale mixed-use walkable and livable community.

The Planning Staff recommended approval of the rezoning request since it provides the flexibility of design that the subdivision needs to fully implement the proposed development scheme.

A motion was made by Mayor Conger, seconded by Councilwoman Marda Wallace to recommend approval of the rezoning request to the Jackson City Council, as recommended by the staff. Motion passed unanimously.

Consideration of a request to close and abandon Elmer Street – Mr. Pilant presented the request to the planning commission. Using a location map, Mr. Pilant briefly discussed the background of Habitat Meadows and stated that the home west of Elmer Street would like to construct a new garage onto the property. However, due to the right-of-way and setbacks on the lot, the garage could not be constructed. Once Elmer Street is closed and abandoned by the city, the property owner on each side will gain half of the right-of-way, which would allow the garage to be constructed.

A motion was made by Mayor Conger, seconded by Councilwoman Marda Wallace to recommend approval of the request to close and abandon Elmer Street to the Jackson City Council, as recommended by the staff. Motion passed unanimously.

Consideration of a final plat for The Summit Section 4B and 5, comprising 49 lots and 1 common area on 9.23± acres in a RS-1/PRD (Single Family Residential/ Planned Residential) District, submitted by Surveying Services, Inc. on behalf of Zeko Properties, LLC -- Mr. Pilant presented the final plat to the planning commission. Using a location map, he explained the location of the site, surrounding uses in the area and the components of the final plat. The subdivision creates 49 new building lots by adding Slaggard Cove, Stellar Cove, and Greenland Drive, which are private streets.

After the administrative review, the planning, engineering, and JEA engineering staffs recommend approval of the final plat with the following conditions:

- 1) The developer provides to the Jackson Energy Authority a wastewater system development fee in the amount of \$19,600.
- 2) The developer provides to the Jackson Energy Authority a water system development fee in the amount of \$19,600.
- 3) The developer provides to the City of Jackson a street performance security in the amount of \$28,300.
- 4) All inspections and testing will need to be completed prior to recording the final plat.

A motion was made by Mayor Conger, seconded by Councilwoman Marda Wallace to approve the final plat for The Summit Section 4B and 5, as recommended by the staff. Motion passed unanimously.

Consideration of a preliminary site plan for Captain D's, proposed to be located at the corner of Chloe Place and Lizzie Anna Cove, submitted by SMPO LLC -- Mr. Pilant presented the preliminary site plan for Captain D's. Using a location map, he explained the location of the site and the components of the site plan.

The staff recommended approval of the preliminary site plan. (See Site Plan Staff Report)

A motion was made by Councilwoman Marda Wallace, seconded by Charles Adams to approve the proposed preliminary site plan for Captain D's, as recommended by the staff. Motion passed unanimously.

Consideration of a Resolution to limit truck traffic on Primrose Drive -- Mr. Pilant stated that Northside Church has had difficulties with their property being damaged by large trucks when turning around on Primrose Drive due to it being a Dead End. As a result, the church has requested a "No Outlet" sign and to limit truck traffic on the street.

A motion was made by Charles Adams, seconded by Andrew Long to recommend approval to limit truck traffic on Primrose Drive to the Jackson City Council, as recommended by the staff. Motion passed unanimously.

Consideration of a request to rezone property located at 10 McClellan Road from RS-1 (Single Family) District to O-C (Office Center) District, comprising 2.96 acres, more or less, submitted by NCG Partners -- Mr. Pilant presented the rezoning request to the Planning Commission. Using a location map, he explained the location of the site and the surrounding uses in the area. The applicant is requesting to rezone the property to construct a new bank branch and to develop high-end office and retail.

The Planning Staff recommended approval of the rezoning since it is in compliance with the Comprehensive Civic Master Land Use Plan, and provides for some limited neighborhood scale services.

Afterwards, there was a brief discussion regarding a traffic study that will be required once a final development plan is submitted.

A motion was made by Councilwoman Marda Wallace, seconded by Mayor Scott Conger to recommend approval of the rezoning request to the Jackson City Council, as recommended by the staff. Motion passed on a vote of 4 in favor and 1 abstain, Andrew Long.

There being no further business, the meeting was adjourned.



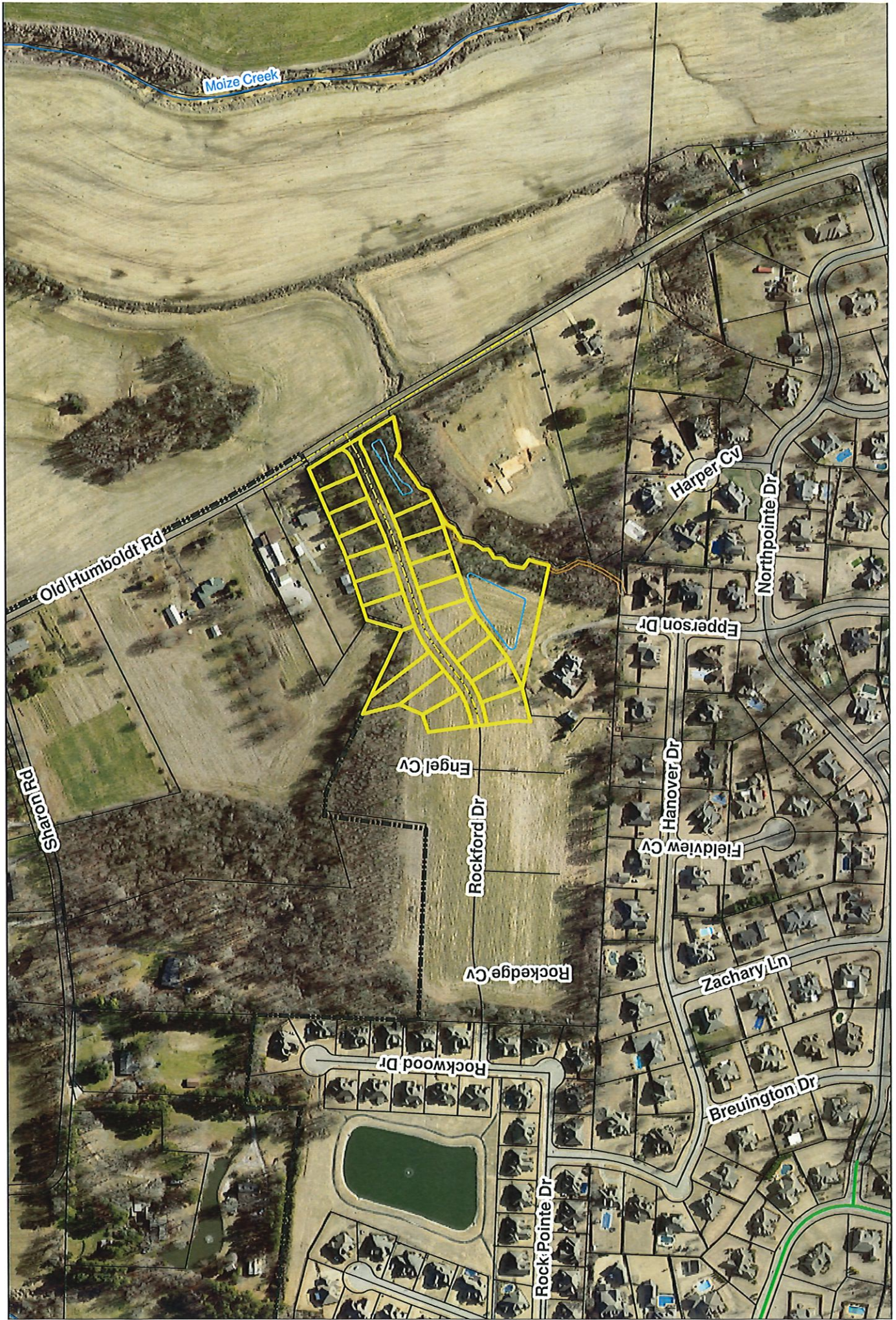
SUBDIVISION STAFF REPORT Epperson Place Section 1 Final Plat

A final plat has been submitted for Planning Commission review and approval by the property owner, K & L Properties. The subdivision creates 20 new building lots by adding the first section of Rockford Drive from Old Humboldt Road, which is a public street.

After the administrative review, the planning, engineering, and JEA engineering staffs recommend approval of the final plat with the following conditions:

- 1) The developer provides to the Jackson Energy Authority a wastewater system development fee in the amount of \$8,000. A bond will be required in the amount of \$14,000 for the remaining wastewater work to be completed.
- 2) The developer provides to the Jackson Energy Authority a water system development fee in the amount of \$8,000.
- 3) The developer provides to the City of Jackson a street performance security in the amount of \$17,700.
- 4) The developer provides to the City of Jackson a street light installation fee in the amount of \$2,000.
- 5) All inspections and testing will need to be completed prior to recording the final plat.

SITE LOCATION MAP
ROCKFORD DRIVE
FINAL PLAT - EPPERSON PLACE SECTION 1





SUBDIVISION STAFF REPORT

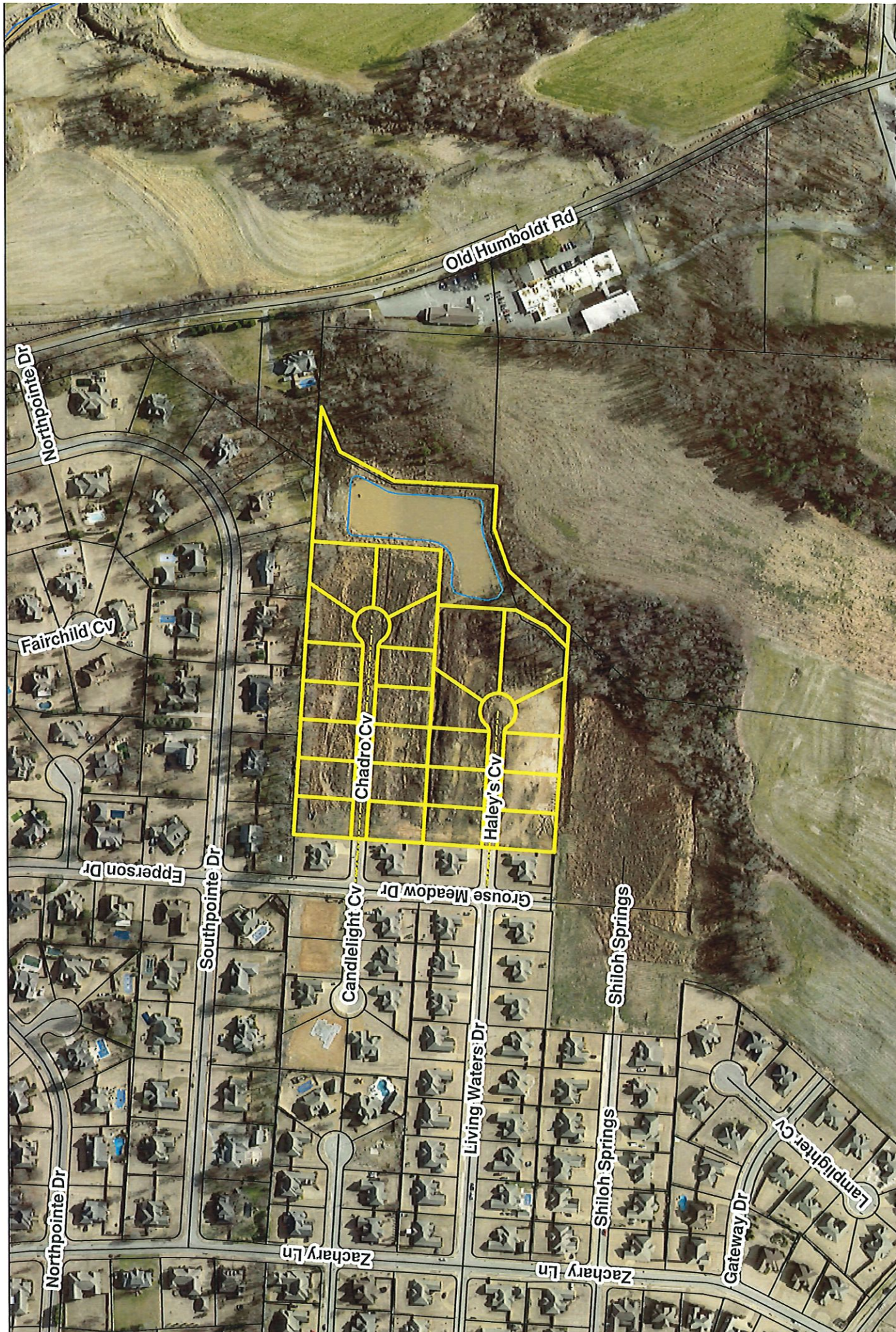
Shiloh Springs Sections 13-B & 14-B Final Plat

A final plat has been submitted for Planning Commission review and approval by the property owner, Jerry Winberry. The subdivision creates 24 new building lots by adding Chadro Cove and Haley's Cove, which are public streets.

After the administrative review, the planning, engineering, and JEA engineering staffs recommend approval of the final plat with the following conditions:

1. The developer provides to the Jackson Energy Authority a wastewater system development fee in the amount of \$9,600.
2. The developer provides to the Jackson Energy Authority a water system development fee in the amount of \$9,600.
3. The developer provides to the City of Jackson a street performance security in the amount of \$19,800.
4. The developer provides to the City of Jackson a street light installation fee in the amount of \$2,000.
5. All inspections and testing will need to be completed prior to recording the final plat.


SITE LOCATION MAP
CHADRO COVE & HALEYS COVE
FINAL PLAT - SHILOH SPRINGS 13-B & 14-B



FINAL PLAT

SHILOH SPRINGS

SECTIONS 13B & 14B



CITY OF JACKSON, MADISON COUNTY, TENNESSEE

TAX MAP 27, PARCEL 03-0 & TAX MAP 33, PARCEL 32A

SECTION 13B - 10 LOTS - 4.81 ACRES

SECTION 14B - 14 LOTS - 1 COMMON AREA - 1.98 ACRES

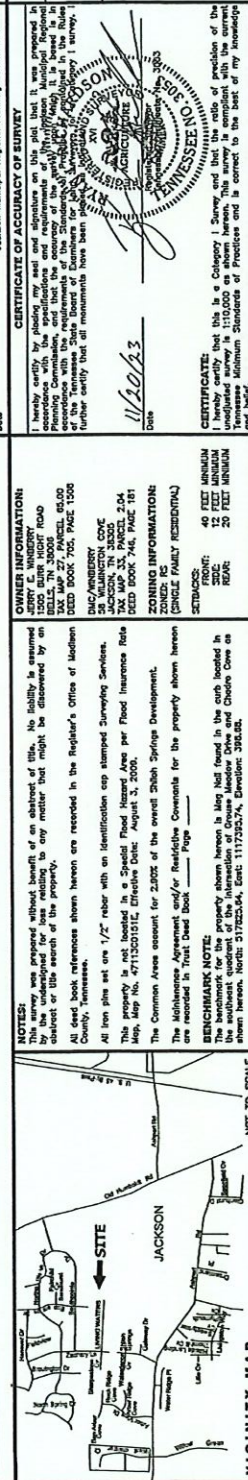
DRAWN BY: RYAN L. RICHARDSON DATE: 1/27/27/2022

SCALE: 1"=100'

DWG. NO: 2009-07-PT-13B-14B

0' 100' 200'

SURVEYING SERVICES, INC.
JACKSON, TENNESSEE
4111 OTTAWA AVE
(731) 944-3607





**DESIGN REVIEW STAFF REPORT
418 EAST BALTIMORE STREET**

The Planning Staff would recommend approval of the design review request since it represents a good design.

SITE LOCATION MAP
DESIGN REVIEW - #418 EAST BALTIMORE STREET

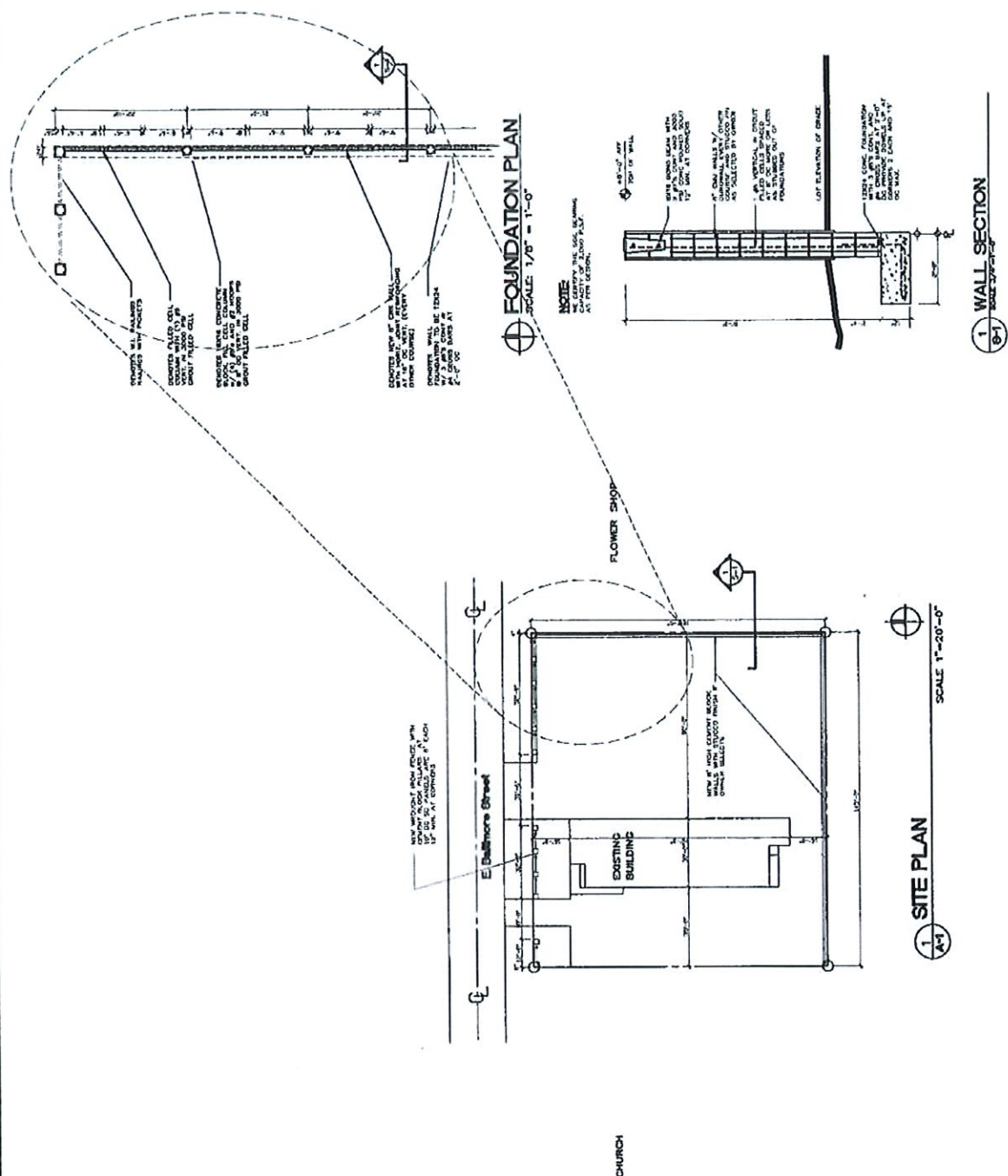


DATE	
PROJECT	
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BY	
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JTL THIRD
 A Renovation For:
 418 B. Baltimore Street
 Jackson, TN 38301

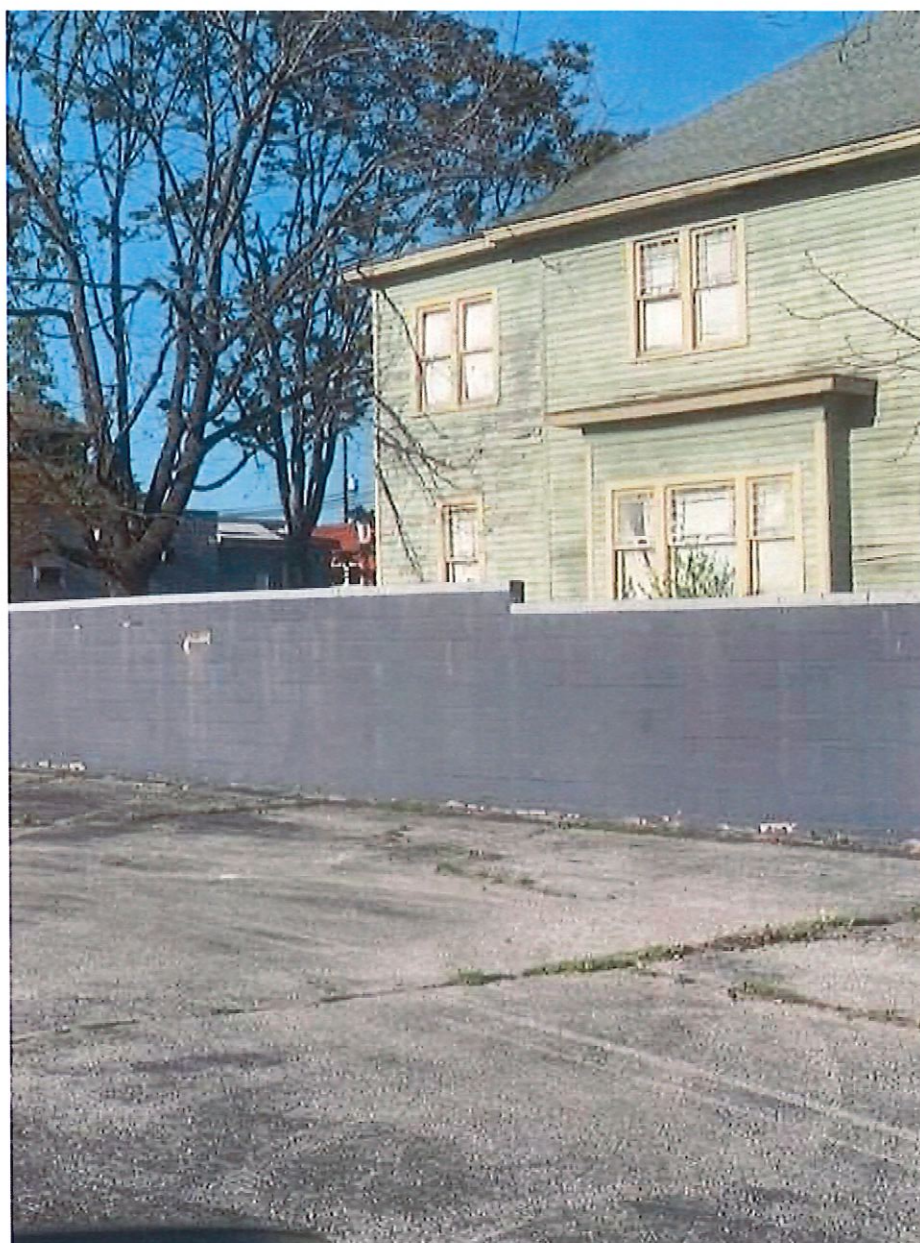
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PROJECT	418 B. BALTIMORE ST.
DESCRIPTION	RENOVATION
BY	JTL
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A-1









October 31, 2023

Via Electronic Submission

Brittany Alexander
City of Jackson
Planning Dept.

Re: In re *James T. Lawrence, III – 418 E. Baltimore St.*
Our File No.: 10945-12704

To Whom It May Concern:

Please be advised that my firm represents James T. Lawrence, III, the current owner of the real property more particularly described as 418 E. Baltimore St., Jackson, TN 38301, Madison County Tax Assessor Map 078P Parcel 012.00 (the "Property"). Mr. Lawrence proposes to construct a concrete block w/ stucco covering wall and wrought iron fence around the perimeter of the Property in connection with his proposed redevelopment of the Property and building located thereon as a high-end dining establishment. The design of the perimeter wall/fence is consistent with fencing located on other adjacent properties located on East Baltimore. The quality and design of the fence, as well as the addition of a proposed high-end dining establishment, will enhance the character and value of properties located of East Baltimore Street, create jobs and increase the tax base, and further the redevelopment and revitalization goals of stakeholders with regard to the downtown Jackson area.

Mr. Lawrence and I look forward to working with you with the common goal of revitalizing and enhancing the livability of the downtown Jackson area. Please feel free to give me a call should you wish to discuss this matter or should you have any questions.

Best Regards.

Yours very truly,

Siroky Law, PLC



Todd D. Siroky, Attorney at Law
direct dial: 731.300.3635
direct fax: 731.474.4273
email: todd@sirokylaw.com

cc: James T. Lawrence, III (via email only)

CITY OF JACKSON, TENNESSEE
RULES AND REGULATIONS FOR THE
CONTROL OF SOIL EROSION AND STORMWATER

SECTION 1. AUTHORITY

These Rules and Regulations are promulgated pursuant to City of Jackson Code of Ordinances, Title 14, Chapter 5, titled "EROSION AND STORMWATER CONTROL".

SECTION 2. PURPOSE

Within the City of Jackson, stormwater runoff from disturbed land sites convey high volumes of sediment and other pollutants into receiving waters, degrading water quality and land surfaces, contributing to the impairment of the flood plain, increasing street and storm sewer maintenance cost, and increasing flooding and dusty conditions. The removal of existing trees and vegetation can compound and aggravate the aforementioned conditions.

The purpose of these rules and regulations is to ~~establish stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within the City of Jackson.~~ protect, maintain, and enhance the environment of the City of Jackson and the public health, safety and the general welfare of the citizens of the City, by controlling discharges of pollutants to the city's stormwater system and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the City of Jackson. These rules and regulations establish methods for controlling discharges of pollutants into the Municipal Separate Storm Sewer System (MS4) and will enable the City to comply with the National Pollution Discharge Elimination System (NPDES) permit and applicable regulations, 40 CFR § 122 as applicable for stormwater discharges.

The objective of these rules and regulations are:

- 1) To reduce erosion and sedimentation resulting from the development of land within the City of Jackson.
- 2) To attenuate the stormwater runoff from developed land.
- 3) To integrate measures to reduce practices that adversely affect the natural vegetative cover within the City of Jackson.

SECTION 3. DEFINITIONS

For the purpose of these rules and regulations, the following shall mean:

~~303(d) Waterbody. A list of lakes, rivers, and streams that have been designated as impaired or threatened by a pollutant(s) for which one or more TMDLs are needed. Impaired means that~~

~~the water is not meeting state water quality standards.~~

Administrative or Civil Penalties. Under the authority provided in Tennessee Code Annotated § 68-221-1106, the City of Jackson declares that any person violating the provisions of this chapter may be assessed a civil penalty by the City of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.

Analytical monitoring. Test Procedures for the Analysis of Pollutants - Test procedures for the analysis of pollutants shall conform to regulations published pursuant to Section 304 (h) of the Clean Water Act (the "Act"), as amended, under which such procedures may be required. Pollutant parameters shall be determined using sufficiently sensitive methods in Title 40 C.F.R. § 136, as amended, and promulgated pursuant to Section 304 (h) of the Act. The chosen methods must be sufficiently sensitive as required in state rule 0400-40-03-.05(8).

Aquatic Resource Alteration Permit (ARAP). Physical alterations to properties of the waters of the state require an ARAP or a §401 Water Quality Certification (§401 certification). ARAP means a permit issued pursuant to T.C.A. § 69-3-108 of the Act, which authorizes the alteration of properties of waters of the state that result from activities other than discharges of wastewater through a pipe, ditch, or other conveyance.

As built plans (record drawings). Drawings depicting conditions as they were actually constructed.

Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the discharge of pollutants to waters of the state. BMPs also include treatment requirements, operating procedures; and practices to control plant site runoff, spillage, leaks, sludge or waste disposal, or drainage from raw material storage. BMPs include source control practices (non-structural BMPs) and engineered structures designed to treat runoff.

- Structural BMPs are facilities that help prevent pollutants in stormwater runoff from leaving the site.
- Non-structural BMPs are techniques, activities and processes that reduce pollutants at the source.

BMP Manual. Technical guidance including additional policies, criteria, standards, specifications, constants, and information for the proper implementation of the requirements of the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR § 122 as applicable for stormwater discharges.

Board. Also referred to as the Environmental Advisory/Appeals Board.

Buffer. ~~A designated area adjacent to or a part of a stream or wetland that is an integral part of the stream or wetland ecosystem.~~

Buffer Zone or Water Quality Riparian Buffer. A permanent strip of natural perennial vegetation, adjacent to a stream, river, wetland, pond, or lake that contains dense vegetation made up of grass, shrubs, and/or trees. The purpose of a water quality riparian buffer is to maintain existing water quality by minimizing risk of any potential sediments, nutrients or other pollutants reaching adjacent surface waters and to further prevent negative water quality impacts by providing canopy over adjacent waters.

Channel. ~~The portion of a natural stream which conveys normal flows of water.~~ A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

Clearing. Removal of vegetation and disturbance of soil prior to grading or excavation in anticipation of construction activities. Clearing may also refer to wide area land disturbance in anticipation of non-construction activities. Clearing, grading, and excavation do not refer to clearing of vegetation along existing or new roadways, highways, dams, or power lines for sight distance or other maintenance and/or safety concerns, or cold planing, milling, and/or removal of concrete and/or bituminous asphalt roadway pavement surfaces. The clearing of land for agricultural purposes is exempt from federal stormwater NPDES permitting in accordance with Section 401(1)(1) of the 1987 Water Quality Act and state stormwater NPDES permitting in accordance with the Tennessee Water Quality Control Act of 1977 (T.C.A. 69-3-101 et seq.).

City. Also referred to as the City of Jackson.

Design storm. A storm event as defined by Precipitation-Frequency Atlas of the United States. Atlas 14. Volume 2. Version 3.0. U.S. Department of Commerce. National Oceanic and Atmospheric Administration (NOAA), National Weather Service, Hydrometeorological Design Studies Center, Silver Springs, Maryland or its digital product equivalent. The estimated design rainfall amounts, for any return period interval (i.e., 1-yr, 2-yr, 5-yr, 25-yr, etc.,) in terms of either depths or intensities for any duration, can be found by accessing the data available at https://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html.

Detention basin. - A structure or facility, natural or artificial, which stores stormwater on a temporary basis and releases it at a controlled rate.

Disturbed area. An area of land subjected to erosion due to the removal of vegetative cover and/or earthmoving activities, including filling.

Drainage. The interception and removal of groundwater or surface water by natural or artificial means.

Erosion and Drainage Control Plan (EDCP). A plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

Exceptional Tennessee Waters. Surface waters designated by the Tennessee Department of Environment and Conservation as having the characteristics set forth at Tennessee Rules, Chapter 0400-40-03-.06(4). Characteristics include waters within parks or refuges; scenic rivers; waters with threatened or endangered species; waters that provide specialized

recreational opportunities; waters within areas designated as lands unsuitable for mining; waters with naturally reproducing trout; waters with exceptional biological diversity and other waters with outstanding ecological or recreational value.

Impervious Cover. Surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc).

Land Disturbance Activity. Any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

Maintenance Agreement. A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

Operator. Any person who owns, leases, operates, controls, or supervises a source. Including, but not limited to, an owner or operator of any "facility or activity" subject to regulation under the NPDES program.

Permanent Stabilization. When all soil disturbing activities at the site have been completed and one of the three following criteria is met:

- A perennial, preferably native, vegetative cover with a uniform (i.e., evenly distributed, without large bare areas) density of at least 70 percent has been established on all unpaved areas and areas not covered by permanent structures, and all slopes and channels have been permanently stabilized against erosion.
- Equivalent permanent stabilization measures such as the use of riprap; permanent geotextiles; hardened surface materials including concrete, asphalt, gabion baskets or Reno mattresses have been employed.
- For construction projects on land used for agricultural or silvicultural purposes, permanent stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural or silvicultural use.

Person. Any and all persons, including individuals, firms, partnerships, associations, public or private institutions, state or federal agencies, municipalities or political subdivisions or public or private corporations.

Pollution. Degradation of water quality, preventing the use of water for some specific purpose, caused by a natural or human-made substance.

Priority construction. Any construction activities discharging directly into, or immediately upstream of, waters the state recognized as unavailable condition for siltation or Exceptional Tennessee Waters.

Rainfall event. Defined as any occurrence of rain preceded by 10 hours without precipitation that results in an accumulation of 0.01 inches or more. Instances of rainfall occurring within 10 hours of each other will be considered a single rainfall event.

Registered Engineer and Registered Landscape Architect. An engineer or landscape architect certified and registered by the State Board of Architectural and Engineer Examiners pursuant to Section 62-202, Tennessee Code Annotated, to practice in Tennessee.

Retention basin. A wet or dry stormwater holding area, either natural or manmade, which does not have an outlet to adjoining watercourses or wetlands other than an emergency spillway.

Sediment. ~~Mineral or organic solid particulate matter that has been removed from its site of origin by (a) soil erosion; (b) suspension in water; and/or (c) wind or water transport.~~ Solid material, both inorganic (mineral) and organic, that is in suspension, is being transported; or has been moved from the site of origin by wind, water, gravity or ice as a product of erosion.

Sediment basin. A temporary basin consisting of an embankment constructed across a wet weather conveyance, an excavation that creates a basin or by a combination of both. A sediment basin typically consists of a forebay cell, impoundment, permanent pool, primary spillway, secondary or emergency spillway and surface dewatering device. The size and shape of the basin depends on the location, size of drainage area, incoming runoff volume and peak flow, soil type and particle size, land cover, and receiving stream classification (i.e., waters with unavailable parameters, Exceptional TN Waters, or waters with available parameters).

Site. Any tract, lot, or parcel of land or combination of tracts, lots or parcels of land proposed for development.

Soil erosion. The wearing away of land by the action of wind, water, gravity or a combination thereof.

Stop Work Order. An order issued which requires that all construction activity on a site be stopped.

Stormwater. ~~Runoff water resulting from precipitation.~~ Rainfall runoff, snow melt runoff, and surface runoff and drainage.

Stormwater control measure or SCM. Permanent practices and measures designed to reduce the discharge of pollutants from new development projects or redevelopment projects.

Stormwater runoff. Waters from rains falling within a tributary drainage basin, flowing over the surface of the ground or collected in channels, watercourses, or conduits, measured in depth of inches.

Stream. ~~A blue line on a U.S.G.S. TOPO map that has not been determined to be a wet-weather conveyance by the Tennessee Department of Environment and Conservation (TDEC) Division of Water Pollution Control.~~ Defined by TCA 69-3-103(38) "stream" means a surface water that is not a wet weather conveyance.

Tennessee Erosion and Sediment Control (TDESC) Handbook. Guidance issued by the Division of Water Resources for the purpose of developing Stormwater Pollution Prevention Plans and Erosion and Sediment Control Plans required by the Construction General Permit CGP.

Temporary stabilization. When vegetation or non-erodible surface has been established on the area of disturbance and construction activity has temporarily ceased. Under certain conditions, temporary stabilization is required when construction activities temporarily cease.

~~Total Maximum Daily Load (TMDL). The maximum amount of pollutants which can be released into a water body without adversely affecting the water quality.~~

Treatment chemicals. Polymers, flocculants or other chemicals used to reduce turbidity in stormwater discharges by chemically bonding to suspended silts and other soil materials and causing them to bind together and settle out. Common examples of anionic treatment chemicals are polyacrylamide-chitosan (PAM-CS).

Turbidity. Cloudiness or haziness of a fluid caused by individual particles (suspended solids) that are generally invisible to the naked eye, similar to smoke in air.

Vegetative cover. Grasses, shrubs, trees, and other vegetation, which hold and stabilize soils.

Waste site. An area where material from a construction site is disposed of. When the material is erodible, such as soil, the site must be treated as a construction site.

Waters (or waters of the state). Any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through, or border upon Tennessee or any portion thereof, except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine or effect a junction with natural surface or underground waters.

Waters with unavailable parameters. Any segment of surface waters that has been identified by the TDEC as failing to support one or more classified uses. Unavailable parameters exist where water quality is at, or fails to meet, the levels specified in water quality criteria in Rule 0400-40-03-.03, even if caused by natural conditions. In the case of a criterion that is a single response variable or is derived from measurement of multiple response variables, the unavailable parameters shall be the agents causing water quality to be at or failing to meet the levels specified in criteria. Resources to be used in making this determination include biennial compilations of impaired waters, databases of assessment information, updated GIS coverages (<https://tdeconline.tn.gov/dwr/>), and the results of recent field surveys. GIS coverages of the streams and lakes not meeting water quality standards, plus the biennial list of waters with unavailable parameters, can be found at <https://www.tn.gov/environment/program-areas/wr-water-resources/water-quality/water-quality-reports---publications.html>.

Water quality riparian buffer. A permanent strip of natural perennial vegetation adjacent to a stream, river, wetland, pond, or lake that contains dense vegetation made up of grass, shrubs, and/or trees. The purpose of a water quality riparian buffer is to maintain existing water quality by minimizing the risk of any potential sediments, nutrients, or other pollutants reaching

adjacent surface waters and to further prevent negative water quality impacts by providing canopy over adjacent waters.

Water quality treatment volume (WQTV). A portion of the runoff generated from impervious surfaces at a new development or redevelopment project by the 1-year 24-hour design storm. The WQTV is further determined by the type of treatment provided.

Wetland. Land characterized by the presence of water at a frequency and duration sufficient to support and that under normal circumstances does support wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh.

Wet weather conveyances. Man-made or natural watercourses, including natural watercourses that have been modified by channelization, that meet the following:

- The conveyance carries flow only in direct response to precipitation runoff in its immediate locality.
- The conveyance's channels are at all times above the groundwater table.
- The flow carried by the conveyance is not suitable for drinking water supplies.
- Hydrological and biological analyses indicate that, due to naturally occurring ephemeral or low flow under normal weather conditions, there is not sufficient water to support fish or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two months. (Tennessee Rules, Chapter 0400-40-3-.04(3)).

SECTION 4. SITE DEVELOPMENT PERMIT REQUIREMENTS

A. General

A Site Development Permit is required for any activity(s) within the City of Jackson that will involve any clearing, grading, or any form of land disturbance caused by the movement of earth or that will increase stormwater runoff due to a decrease of soil permeability. No land shall be disturbed within the City of Jackson unless a Site Development Permit has been issued in accordance with these regulations.

For the purpose of this policy, clearing shall include but not be limited to, activities that change the natural character of the existing vegetative cover such as clear cutting, grubbing and selective tree removal (i.e. logging).

For new development and redevelopment projects that involve land disturbances of one or more acres of land, or will disturb less than one acre of land but are part of a common plan of development or sale that will ultimately disturb one or more acres of land, proof of coverage under the Tennessee Construction General Permit (CGP) when requested and a copy of the Stormwater Pollution Prevention Plan (SWPPP) to the City when requested, will be required in addition to the site development permit.

B. Exceptions

No Site Development Permit shall be required for:

1. Accepted land management practices as identified in the "Tennessee Right to Farm Act" (Section 43-26-101, TCA).
2. Home gardens, home landscaping, or lawn preparation at existing residential houses unless the possibility for erosion or alteration of drainage patterns or structures is such that adjacent properties or waterways may be affected.
3. The installation, maintenance and repair of any public utility as well as roadway and storm drainage construction and maintenance by government agencies and their agents, provided, however that such land disturbing activities shall comply fully with the Rules and Regulations set forth by the Tennessee Department of Environment and Conservation (TDEC).

C. Construction Stormwater Management

1. The City of Jackson adopts the current edition of the Tennessee Erosion and Sediment Control Handbook produced by the Tennessee Department of Environment and Conservation (TDEC), as its MS4 stormwater construction BMP manual.
2. Requirements for design storm for all waters as well as special conditions for unavailable parameters waters or exceptional Tennessee waters must be consistent with those of the current Tennessee Construction General Permit (TNR100000).
3. Construction site operators are required to minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater.
4. Requirements for all priority construction activities must include preconstruction meetings with construction site operators for priority construction activities.
5. Construction site operators are required to implement appropriate erosion prevention and sediment control measures and best management practices. EPSC requirements shall meet the Tennessee's CGP design storm(s), be consistent with the TDEC ESC Handbook best management practices and with the requirements of this ordinance.
6. Where site assessments are required by the CGP, the operator shall provide a copy of the assessment to the City.
7. Twice-Weekly inspections of the site and the BMP's/SCM's must be performed by an individual who has either received certification under the Level I Fundamentals of Erosion Prevention and Sediment Control course or has other credentials identified as equivalent within this ordinance.

8. Landscaping and stabilization requirements.

- a. Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall be stabilized. Stabilization measures shall be initiated as soon as possible in portions of the site where construction activities have temporarily or permanently ceased. Temporary or permanent soil stabilization at the construction site (or a phase of the project) must be completed not later than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased. In the following situations, temporary stabilization measures are not required:
 - i. where the initiation of stabilization measures is precluded by snow cover or frozen ground conditions or adverse soggy ground conditions, stabilization measures shall be initiated as soon as practicable; or
 - ii. where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within 14 days.
 - b. For steep slopes of 35% or more, stabilization measures shall be initiated within 7 days in Construction buffer zones. Construction buffer zones shall be those water quality buffers and buffer zones as defined in 14-502 above and shall meet the requirements in this ordinance and, where appropriate in the TN CGP. The criteria for the width of the construction buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than the required minimum width at any measured location. If the new development or redevelopment site encompasses both sides of a stream, buffer averaging can be applied to both sides, but must be applied independently. Water quality riparian buffer widths are measured from the top of bank also referred to as the "ordinary high-water mark." Construction buffers are not primary sediment control measures and shall not be relied on as such. Stormwater discharges must enter the water quality riparian buffer zone as sheet flow, not as concentrated flow, where site conditions allow. The designer/operator must comply with the vegetation requirements and the permissible land uses set forth for buffers in the TN CGP. Where it is not practicable to maintain a construction water quality riparian buffer, BMPs providing equivalent protection to a receiving stream as a natural water quality riparian buffer must be used.
 - c. In arid, semiarid, and drought-stricken areas where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures such as properly anchored mulch, soil binders or matting must be employed.
9. As built plans (record drawings). All applicants are required to submit actual as built plans certified by the design engineer for any structures located on-site within 90 days after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be sealed by a registered professional engineer licensed to practice in Tennessee. A certification by the design engineer certifying that

SCM's will function within original design parameters as constructed shall be included. A final inspection by the City is required before any performance security or performance bond will be released. The City shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or performance bond on the completion of various stages of development. In addition, occupation permits shall not be granted until corrections to all BMP's/SCM's have been made and accepted by the City. No bonds or securities shall be released by the City until the as built plans have been accepted by the City. The warranty period for any infrastructure to be accepted by the City for maintenance shall not commence until the City has accepted the as built plans.

SECTION 5. REQUIREMENTS FOR EROSION AND DRAINAGE CONTROL PLANS (EDCP)

A. Applicability & Responsibility

For purposes of obtaining a Site Development Permit for residential subdivisions and commercial subdivisions/establishments, an Erosion and Drainage Control Plan (EDCP) meeting the requirements established in Section B below, shall be submitted for approval to the City by the owner/developer. This information shall be supplied for the entire tract of land whether or not the property will be developed in stages. If the development is to occur in stages, all phases will be left in the natural/undisturbed state except for those phases under active construction.

The EDCP must be approved by the City Engineer or Authorized Representative prior to commencement of land disturbance activities. The owner/developer shall implement the requirements of the approved EDCP and shall be responsible for continuous maintenance of the erosion and sediment control measures during construction. For residential & commercial subdivision of land, the owner/developer shall be responsible for implementation of the entire plan including drainage improvements and erosion control measures that go through or across several lots/sites in the subdivision. The subsequent owner of each building lot/site shall also be required to obtain a Site Development Permit that shall be obtained concurrently with the building permit. No formal EDCP is required for a single residence on a parcel of 2 acres or less. However, the Homebuilder shall provide and maintain erosion and drainage control measures to meet the terms & conditions established in his/her Site Development Permit.

An amended EDCP must be submitted to the City Engineer or Authorized Representative if site plans or conditions change during land disturbance activities.

B. Minimum Requirements for the EDCP

1. The EDCP shall be prepared and stamped by a Professional Engineer (P.E.) registered in the State of Tennessee. The City Engineer may wave the P.E. requirement if the EDCP requires no engineering design calculations.
2. The EDCP shall specify erosion prevention and sediment control best management practices (BMPs) measures that are in accordance with the recommendations contained in the current Tennessee Erosion and Sediment Control Handbook produced by the Tennessee Department of Environment and Conservation (TDEC), ~~and dated March 2002, or~~

~~subsequent editions produced by TDEC.~~

3. The EDCP must provide documentation that all required permits have been obtained from Federal and State regulatory agencies or provide a written waiver of such permits.
4. The EDCP shall be drawn at a scale of 1" = 100' (or larger) and will include (a) a site location (key map) as well as the adjacent properties and (b) identification of any structural or natural feature of the land which has a significant impact on drainage or siltation controls. Grading limits shall be shown.
5. Special flood hazard areas shall be identified by Floodway and Flood Fringe boundary lines as shown by the Federal Emergency Management Agency scientific and engineering reports, with accompanying Flood Insurance Rate Maps and Flood Boundary and Floodway Maps and any revision(s). Floodway data shall be plotted on the plans from scaled information obtained from FEMA studies. Flood Fringe data shall be plotted on the plans from scaled information and then refined by adjusting this line to existing contours relative to the hydraulic profile of the stream for the 100-Year Frequency Flood.
6. The EDCP shall show property boundary bearings and distances for the site on which the work is to be completed.
7. The EDCP shall contain a reasonable estimate of the anticipated starting and completion dates of the development. The timing schedule shall include the sequence and application of erosion and sediment control measures.
8. The EDCP shall show existing and proposed topography of the site at two (2) foot contour intervals except on slopes exceeding 20% grade. In such conditions, contour intervals shall not exceed five (5) feet.
9. The EDCP shall show the elevation, dimension, location, extent and slope of all existing and proposed ditch lines.
10. The EDCP shall show the location and identification of all existing and proposed site features and/or structures (either manmade or natural) that could have a significant impact on drainage or siltation controls.
11. The EDCP shall contain plans and specifications for all drainage provisions, retaining walls, cribbing, planting, anti-erosion devices or other protective devices (whether temporary or permanent) to be constructed in connection with, or as a part of the proposed work.
12. The EDCP shall contain a map showing the drainage area of land tributary to the site and calculations of estimated runoff used to determine the design characteristics of any drainage device(s). Development of property upstream shall be considered in design calculations. Downstream improvements may also be required of the developer if such improvements are required to handle additional stormwater runoff generated by the proposed development.

13. The EDCP shall document that the post-development maximum stormwater flow rate from the site will not exceed the pre-development maximum stormwater flow rate for the 1, 2, 5 and 10-year 24-hour frequency rainfall events. Generally accepted engineering methods shall be used to calculate stormwater runoff rates and volumes. The EDCP shall show plans and specifications for structures necessary to limit post-development runoff to pre-development rates.
14. The EDCP shall outline plans for post-construction care, maintenance, or final disposition of silt basins, stormwater retention/detention basins, or other structural improvements or devices included in the plan.
15. The EDCP shall list the name(s) of all stormwater receiving waters from the construction site. ~~If the receiving waters are listed on the then current State of Tennessee 303(d) list as partially supporting or non-supporting, the project will be considered a high inspection priority site requiring a pre-construction meeting with Stormwater Management staff and the construction and grading contractors for the purpose of enhanced erosion and sediment control planning.~~
Any construction activity that discharges directly into, or immediately upstream of, waters the state recognized as unavailable condition for siltation or Exceptional Tennessee Waters will be defined as a priority construction site. Priority construction site operators will be required to attend a pre-construction meeting prior to work commencing.
16. Erosion and sedimentation control measures and drainage structures shall be ~~planned,~~ designed, installed, ~~constructed,~~ ~~operated~~ and maintained so as to provide effective soil erosion and drainage control. Drainage area recommendations and treatment design specifications are provided in the current Tennessee Erosion and Sediment Control Handbook. The selection and design of the control measures and structures should be consistent with the design storm requirements for the current Tennessee Construction General Permit (TNR100000).
17. For an outfall that receives drainage from 10 or more acres, a minimum sediment basin volume that will provide treatment for a calculated volume of runoff from a 2-year, 24-hour storm and runoff from each acre drained, or equivalent control measures as specified in the current Tennessee Erosion and Sediment Control Handbook, shall be required until permanent stabilization of the site.
18. The EDCP shall specify that erosion and sediment control measures shall be inspected twice weekly at intervals at least 72 hours apart and repaired as necessary. During prolonged rainfall, daily checking and repairing is necessary. Twice-Weekly inspections of the site and the BMP's/SCM's must be performed by an individual who has either received certification under the Level I Fundamentals of Erosion Prevention and Sediment Control course or has other credentials identified as equivalent within this ordinance.
19. The EDCP shall specify that erosion and sediment control measures shall be in place and functional prior to any clearing, grading, excavating, filling or otherwise disturbing natural terrain and that these control elements must be maintained throughout the development activity.

20. The EDCP shall include a description of temporary and permanent stabilization practices. Stabilization practices may include: temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees and the preservation of mature vegetation. Stabilization measures shall be initiated as soon as possible in portions of the site where construction activities have temporarily or permanently ceased.

SECTION 6. PERMANENT STORMWATER MANAGEMENT

A. Design and Construction Inspection

1. In order to comply with the City's permanent stormwater standards for new development and redevelopment projects, design and install SCMs as established by Tennessee Rule 0400-40-10-.04 and comply with other requirements of Tennessee Rule 0400-40-10-.04. Note that for design purposes, total suspended solids (TSS) may be used as the indicator for the reduction of pollutants.
2. SCMs must be designed to provide full treatment capacity within 72 hours following the end of the preceding rain event for the life of the new development or redevelopment project. The designer may select from the most appropriate alternatives listed in the City's BMP Manual.
3. Designs shall be based on the 24-hour design storm adopted by the City: The City has adopted, for use in designing water quality SCMs, the design storm requirements as established in Tennessee Rule 0400-40-10-.04. The Post Construction/Permanent water quality design storm is a 1-year, 24 storm event for water quality SCMs.
4. In addition to the design storm requirements as established in Tennessee Rule 0400-40-10-.04., the City requires the following design standards for detention and retention ponds.
 - a. The calculated peak flow rate of stormwater runoff resulting from a 1-year, 2-year, 5-year, and a 10-year frequency 24-hour duration storm shall be no greater after development of the site than that which would have resulted from the same return frequency storm on the same site prior to the development of the site.
 - b. The plans shall include sufficient design information to show that the facility will operate as required as established by Tennessee Rule 0400-40-10-.04 and complying with other requirements of Tennessee Rule 0400-40-10-.04. This shall include the existing or pre-development peak flow discharges, the post-development flow discharges, and volumes of stormwater runoff based on the proposed development, as well as all necessary computations used to determine the reduced peak flow rates for the design storms. The capacity of the facility shall be sufficient to control the volume of stormwater runoff resulting from a 1-year, 2-year, 5-year and a 10-year frequency 24-hour duration storm.
 - c. Discharge from the stormwater detention pond shall be routed to an existing natural or

manmade stormwater conveyance. Calculations showing the capacity of the receiving stormwater conveyance and its capacity to convey the 1-year, 2-year, 5-year and a 10-year frequency storm shall be provided:-

5. Water Quality Riparian Buffers. Post Construction/Permanent water quality riparian buffers is defined and shall meet the requirements described in these rules and regulations. The criteria for the width of the post construction/permanent buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than the required minimum width at any measured location. If the new development or redevelopment site encompasses both sides of a stream, buffer averaging can be applied to both sides, but must be applied independently. Water quality riparian buffer widths are measured from the top of bank also referred to as the "ordinary high-water mark." Stormwater discharges should enter the post construction/permanent water quality riparian buffer as sheet flow, not as concentrated flow, where site conditions allow.

Post Construction/Permanent buffers for waters with available parameters for siltation or habitat alteration or unassessed waters:

- a. Average buffer width: 30 feet.
- b. Minimum buffer width: 15 feet

Post Construction/Permanent buffers for Exceptional Tennessee Waters or waters with unavailable parameters for siltation or habitat alteration:

- a. Average buffer width: 60 feet.
- b. Minimum buffer width: 30 feet

The designer/operator must comply with the vegetation requirements and the permissible land uses set forth for buffers in the MS4 permit.

B. Permanent SCM Maintenance and Inspection

1. As built plans. All applicants are required to submit actual as built plans for any structures located on-site within 90 days after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be sealed by either a registered professional engineer or landscape architect licensed to practice in Tennessee. A sealed certification by the design engineer that all SCM's will function within design parameters as constructed shall accompany the as built plans. A final inspection by the City is required before any performance security or performance bond will be released. The City shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or performance bond on the completion of various stages of development. In addition, occupation permits shall not be granted until corrections to all stormwater management facilities have been made and accepted by the City.

2. In addition to the certified as built drawings, the City shall be provided with a permanent stormwater management plan for the site and all stormwater management facilities (e.g., SCM's). Occupation permits shall not be granted until the permanent stormwater management plan has been approved and accepted by the City.
3. Inspection of stormwater management facilities. Periodic inspections of facilities shall be performed, documented, and reported in accordance with this chapter, as detailed in §14-506.
4. Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at least three (3) years. These records shall be made available to the City during inspection of the facility and at other reasonable times upon request.
5. Failure to meet or maintain design or maintenance standards. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this chapter, the City, after notice as specified in the Enforcement Response Plan, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the City shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the City may take necessary corrective action. The cost of any action by the City under this section shall be charged to the responsible party.
6. In the event that the stormwater management facility becomes a danger to public health/public safety-the City may take such immediate corrective action as deemed necessary.

C. New Development, Existing Locations and Ongoing Development

1. On-site stormwater management facilities inspection and maintenance agreement.
 - a. Where the stormwater facility is located on property that is subject to a development agreement, and the development agreement provides for a permanent stormwater maintenance agreement that runs with the land, the owners of property must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owners and all subsequent property owners and their lessees and assigns, including but not limited to, homeowner associations or other groups or entities.
 - b. The maintenance agreement shall:

- i. Assign responsibility for the maintenance and repair of the stormwater facility to the owners of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.
 - ii. Provide for a periodic inspection by the property owners in accordance with the requirements of subsection (5) below for the purpose of documenting maintenance and repair needs and to ensure compliance with the requirements of this ordinance. The property owners will arrange for this inspection to be conducted by individual(s) approved by the City who will submit a signed written report of the inspection to the City. It shall also grant permission to the City to enter the property at reasonable times and to inspect the stormwater facility to ensure that it is being properly maintained.
 - c. Provide that the minimum maintenance and repair needs include but are not limited to: the removal of silt, litter and other debris, the cutting of grass, cutting and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other stormwater facilities. It shall also provide that the property owners shall be responsible for additional maintenance and repair needed to meet the intended design specification of the stormwater facility.
 - d. Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the City.
 - e. Provide that if the property is not maintained or repaired within the prescribed schedule, the City shall perform the maintenance and repair at its expense and bill the same to the property owner. The maintenance agreement shall also provide that the City's cost of performing the maintenance shall be a lien against the property.
2. Existing problem locations – no maintenance agreement
- a. The City shall in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problems affecting or caused by such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance. Discharges from existing SCM's that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as non-compliant discharges.
 - b. Inspection of existing facilities. The City may, to the extent authorized by state and federal law, enter and inspect private property for the purpose of determining if there are illicit non-stormwater discharges, and to establish inspection programs to verify that all stormwater management facilities are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants;

inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the City's NPDES MS4 stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other SCM's.

D. Owner/Operator Inspections. The owners and/or operators of the SCMs shall:

1. Perform routine inspections to ensure that all SCM's are properly functioning. These inspections shall be conducted on an annual basis, at a minimum. These inspections shall be conducted by a person familiar with control measures implemented at a site. Owners or operators shall maintain documentation of these inspections. The City may require submittal of this documentation.
2. Perform comprehensive inspection of all stormwater management facilities and practices. These inspections shall be conducted once every five years, at a minimum. Such inspections must be conducted by individual(s) approved by the City. Complete inspection reports for these five-year inspections shall include:
 - a. Facility type,
 - b. Inspection date,
 - c. Latitude and longitude and nearest street address,
 - d. BMP owner information (e.g. name, address, phone number, fax, and email),
 - e. A description of BMP condition including: vegetation and soils; inlet and outlet channels and structures; embankments, slopes, and safety benches; spillways, weirs, and other control structures; and any sediment and debris accumulation,
 - f. Photographic documentation of BMP's, and
 - g. Specific maintenance items or violations that need to be corrected by the BMP owner along with deadlines and reinspection dates.
3. Owners or operators shall maintain documentation of these inspections. The City may require submittal of this documentation.
4. The City will determine inspection frequency for approved SCMs with a minimum of once every five years by the MS4 by a licensed professional engineer, a licensed landscape architect, or other qualified professional familiar with applicable SCM design and maintenance requirements.

E. Requirements for all existing locations and ongoing developments. The following requirements shall apply to all locations and developments at which land disturbing activities have occurred previous to the enactment of this ordinance:

1. Denuded areas must be vegetated or covered under the standards and guidelines specified in the BMP Manual and on a schedule acceptable to the City.
2. Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.
3. Drainage ways shall be appropriately stabilized.
4. Trash, junk, rubbish, etc. shall be cleared from drainage ways.
5. Stormwater runoff shall, at the discretion of the City be treated to the maximum extent practicable to prevent its pollution. Such control measures may include, but are not limited to, the following:

- a. Ponds
 - i. Detention pond
 - ii. Extended detention pond
 - iii. Wet pond
 - iv. Alternative storage measures
- b. Constructed wetlands
- c. Infiltration systems
 - i. Infiltration/percolation trench
 - ii. Infiltration basin
 - iii. Drainage/recharge well
 - iv. Porous pavement
- d. Filtering systems
 - i. Media Filter
 - ii. Sand filter
 - iii. Filter/absorption bed
 - iv. Filter and buffer strips
- e. Open channel
 - i. Swale

F. Water Quality Buffer Zone Management and Maintenance

The ~~stream~~ water quality riparian buffer zone shall be managed to enhance and maximize the unique value of these resources. Management includes specific limitations on alteration of the

natural conditions of these resources. The following practices or activities are prohibited within the buffer zone.

1. Removal of trees unless they are in danger of falling, causing damage to dwellings or other structures, or causing blockages in the stream.
2. Soil disturbance by grading, stripping or other practices.
3. Filling or dumping
4. Use, storage or application of herbicides, except for spot spraying of noxious weeds or non-native species.
5. Storage or operation of motorized vehicles, except for maintenance and emergency use approved by Stormwater Management.

Exclusion: Any project that has received a State or Federal Permit (including but not limited to Aquatic Resource Alteration Permits (ARAP), 401 or 404 permits) will be excluded from those requirements of this policy that are superceded by requirements of the State or Federal Permits.

G. Plat Recording of Water Quality Riparian Buffer Zones:

All plats prepared for recording and right-of-way plats shall clearly show the extent of any Water Quality Riparian Buffer Zone on the subject property by metes and bounds. The Buffer Zone shall be clearly labeled as "Buffer/Non-Disturbance Zone" on the Plat.

~~1. Detention/Retention Pond Design Standards~~

- ~~a. The calculated peak flow rate of stormwater runoff resulting from a 1-year, 2-year, 5-year, and a 10-year return frequency storm shall be no greater after development of the site than that which would have resulted from the same return frequency storm on the same site prior to the development of the site.~~
- ~~b. The plans shall include sufficient design information to show that the facility will operate as required as established by Tennessee Rule 0400-40-10-.04 and complying with other requirements of Tennessee Rule 0400-40-10-.04. This shall include the existing or pre-development peak flow discharges, the post-development flow discharges, and volumes of stormwater runoff based on the proposed development, as well as all necessary computations used to determine the reduced peak flow rates for the design storms. The capacity of the facility shall be sufficient to control the volume of stormwater runoff resulting from a 1-year, 2-year, 5-year and a 10-year frequency 24-hour duration storm.~~
- ~~c. Discharge from the stormwater detention pond shall be routed to an existing natural or manmade stormwater conveyance. Calculations showing the capacity of the receiving~~

stormwater conveyance and its capacity to convey the 1-year, 2-year, 5-year and a 10-year frequency storm shall be provided.

3. Maintenance of Detention/Retention Facilities

- a. ~~A permanent maintenance agreement for stormwater detention/retention facilities will be required, including any components required for water quality control. Responsibility for maintenance of the facility(s) will be recorded as such on the plat with the appropriate notation on the particular lot unless that responsibility has been legally transferred to another person or entity by a properly recorded legal agreement. The registered professional engineer who designs the facility will develop minimum maintenance requirements to ensure that the facility is kept functional. The maintenance agreement will specify minimum maintenance requirements to be performed by the property owner(s) and the frequency of maintenance activities as detailed in §14-506. The maintenance agreement shall be recorded with the property deed.~~

Minimum maintenance requirements will include:

- a. ~~Routine inspections~~
- b. ~~Removal of accumulated trash and debris~~
- c. ~~Routine cutting of grass on banks/levees~~
- d. ~~Sediment removal~~
- e. ~~Stabilization of eroding banks and/or pond bottom.~~
- f. ~~Removal and proper disposal of oil that may accumulate in the pond~~
- g. ~~Removal of willows or other large trees and shrubs from banks/bottom~~

~~The City Engineer may specify other requirements and procedures if necessary for proper maintenance or sediment disposal.~~

~~The maintenance agreement will also grant permission to the City to enter the subject property to inspect the stormwater detention/retention facilities as deemed necessary. If the facility is not being maintained, the City Engineer or his designee will notify the property owner to repair/maintain the facility within a reasonable period of time. If the property owner fails to repair/maintain the facility within the allotted time, the City Engineer shall authorize the required maintenance to be performed or paid by the City. A lien for up to double the expense to the City shall be filed against the property in addition to any other penalty assessed.~~

- b. ~~The City shall in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problems affecting or caused by such locations and~~

developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance. Discharges from existing SCM's that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as non-compliant discharges.

C. Stream Buffer Water Quality Riparian Zone Requirements

Water quality riparian buffer zone are required for all streams with available parameters adjacent to construction sites that are listed as waters with unavailable parameters or Exceptional Tennessee Waters. The water quality riparian buffer is required to protect the waters of the state that are not wet weather conveyances as identified using Tennessee's standard operating procedures for hydrologic determinations.

For purposes of this Policy, a stream is defined as a surface water blue line on a U.S.G.S. TOPO map that has not been determined to be a wet weather conveyance by the Tennessee Department of Environment and Conservation (TDEC) Division of Water Pollution Control. Stream Buffer zones serve as natural boundaries between local waterways and development and help to protect resources by filtering pollutants, providing infiltration of stormwater runoff, providing riparian wildlife habitat, stabilizing stream banks and restoring and maintaining the chemical, physical and biological integrity of the water resources.

It is the desire of the City of Jackson to protect and maintain the native vegetation in riparian and wetland areas by the implementation of specifications for the establishment, protection and maintenance of vegetated buffers along all stream systems within the City.

1. Standards:

- a. The water quality riparian buffer zone should be preserved between the top of stream bank and the disturbed construction area. The vegetated buffer zone shall begin at the top of each bank of the stream channel or at the waterline in reference to wetlands or lakes and shall extend an average of sixty (60) feet, but no less than twenty five (25) feet, for streams that are contained on TDEC's current 303(d) list and twenty five (25) feet for streams not contained on the 303(d) list. The buffer zone shall be measured generally perpendicular to the top of the bank of the stream.
- b. The vegetative target for the buffer is undisturbed native vegetation with woody vegetation (i.e., trees and shrubs) being the dominant plant form along the stream banks.
- c. There shall be no septic systems, permanent structures or impervious cover within the buffer zone.
- d. Stormwater discharges should enter the water quality riparian buffer as sheet flow, not as concentrated flow, where site conditions allow.
- e. For waters with available parameters for siltation or habitat alteration or unassessed waters, the average buffer width is thirty (30) feet but no less than fifteen (15) feet.
- f. For waters listed as Exceptional Tennessee Waters or waters with unavailable parameters for siltation or habitat alteration, the average buffer width is sixty (60) feet but no less than thirty (30) feet.

2. Buffer Zone Management and Maintenance:

~~The stream water quality riparian buffer zone shall be managed to enhance and maximize the unique value of these resources. Management includes specific limitations on alteration of the natural conditions of these resources. The following practices or activities are prohibited within the buffer zone:~~

- ~~a. Removal of trees unless they are in danger of falling, causing damage to dwellings or other structures, or causing blockages in the stream.~~
- ~~b. Soil disturbance by grading, stripping or other practices.~~
- ~~c. Filling or dumping~~
- ~~d. Use, storage or application of herbicides, except for spot spraying of noxious weeds or non-native species.~~
- ~~e. Storage or operation of motorized vehicles, except for maintenance and emergency use approved by Stormwater Management.~~

~~Exclusion: Any project that has received a State or Federal Permit (including but not limited to Aquatic Resource Alteration Permits (ARAP), 401 or 404 permits) will be excluded from those requirements of this policy that are superseded by requirements of the State or Federal Permits.~~

3. ~~Plat Recording of Water Quality Riparian Buffer Zones:~~

~~All plats prepared for recording and right of way plats shall clearly show the extent of any Water Quality Riparian Buffer Zone on the subject property by metes and bounds. The Buffer Zone shall be clearly labeled as "Buffer/Non-Disturbance Zone" on the Plat.~~

SECTION 7. REQUIREMENTS FOR A VEGETATIVE IMPACT EVALUATION (VIE)

A. Applicability & Responsibility

For purposes of obtaining a Site Development Permit for residential subdivisions and commercial subdivisions/establishments, a Vegetative Impact Evaluation (VIE), meeting the requirements established in Section B below, shall be submitted for approval to the City Forester by the owner/developer. No VIE shall be required for:

1. Normal lawn and tree maintenance performed in conjunction with existing residential uses, or performed on public right of ways;
2. Activities performed for the health, safety and welfare of the public due to a natural catastrophe such as an ice storm, flood, or other acts of God;
3. Site preparation on an individual lot for the purpose of constructing a single family or two-family dwelling provided that a building permit has been issued for the construction of said dwelling;

- H. Site preparation associated with an existing single family or two-family residential dwelling, on an individual lot or adjacent lot under same ownership for the purpose of building a pool, deck, fence or other similar structure provided that building permit has been issued for that structure.

B. Minimum Requirements for the VIE

1. The VIE must be prepared by a qualified individual that has been pre-certified by the City as possessing the skills and experience to prepare the VIE. The certification shall consist of a certification form to be filled out by the individual wishing to be certified. The certification form will consist of a set of questions designed to gather information concerning an individual's educational background, employment history, skills and licenses for determining qualifications.
2. The VIE shall contain a description of the property that shall include a general property location description, the acreage of property, the proposed use of the property, and the name, address, and telephone number of the property owner/developer.
3. The VIE shall contain a general overview of the current condition of the property that shall include the current use of the property, recent uses, surrounding land uses, a general description of existing plant community, such as oak, hickory, forest, pasture, Savannah, etc., and any unique characteristics of the property such as specimen trees, erosion problems, drainage features, vegetative blight, etc.
4. The VIE shall contain a generalized tree survey based upon the most current available information. The survey shall show the location, extent, and type of "significant trees" upon the site, including common and scientific names of the trees.

"Significant trees" are those that are either historic or specimen trees or trees that are:

- a. Eight (8) inches or large in diameter, excluding pines (unless used for credit)
- b. Four (4) inches or more dbh, for valuable ornamental species such as dogwood, redbud, buckeye, paw paw, and sassafras.

Diameter is measured at four and a half feet above grade (diameter at breast height - dbh). If a tree is on a slope, measure from the high side of the slope. Measure above or below unusual swells in the trunk.

Historic trees are those that are of notable historical interest and value due to its association with the physical and cultural development of the City of Jackson. A **specimen tree** is one that is of high value due to its type, size, age and other relevant criteria.

5. The VIE shall indicate which significant trees are intended for removal and/or grubbing and which will be left undisturbed.

6. The VIE shall be prepared at the same scale as the site plan that clearly illustrates the relationships between areas of significant trees and proposed site improvements.

B. Removal of trees

Removal of a significant tree shall be allowed if the developer/owner demonstrates by specific development plans one or more of the following conditions:

1. The tree or specific trees that interfere with the reasonable use of the site may be removed to allow placement of structures such as buildings, parking, drives, signs, utility easements, etc.
2. The tree is located in such proximity to an existing or proposed structure that the safety, utility or structural integrity of the structures is materially impaired.
3. The tree materially interferes with the location, servicing, or functioning of existing utility lines or services.
4. The tree creates a substantial hazard to motor, bicycle or pedestrian traffic by virtue of physical proximity to traffic or impairment of vision.
5. The tree is diseased, insect ridden, or weakened by age, abuse, storm, or fire and is likely to cause injury or damage to people, buildings or other improvements.
6. The removal of the tree is necessary to promote the growth of surrounding significant trees. Under this provision, the applicant must demonstrate a preference for protecting historic and specimen trees.
7. Any law or regulation requires the removal.
8. Trees that impair visibility of the front of the project. It shall be demonstrated on the VIE that trees removed pursuant to this condition do indeed impair more than ten (10) percent of the visibility of the front of the project, as measured as a function of canopy width of tree(s) at widest point to linear footage of frontage. In the case of a corner lot, this would apply to both frontages.

D. Replacement of removed trees

Replacement of removed trees shall be in accordance with the following provisions:

1. Trees removed shall be replaced at the expense of the developer/owner.
2. Each removed tree shall be replaced with a new tree (s) having a total dbh equivalent to that of the removed tree, up to the level in which the Landscape Ordinance requirements have been equally met. Ratio of species shall be the same.

3. Single-trunk replacement trees shall be a minimum of one and a half inch in diameter at a point six (6) inches above the base and a minimum of ten (10) feet in overall height.
4. A replacement tree may be a tree moved from one location to another on the site.
5. Any tree, existing or replacement, used in meeting the requirement of this chapter, which dies shall be replaced, by the owner, by either a tree of a minimum of one and a half inches in diameter and a minimum of ten (10) feet in overall height at the time of planting or a replacement tree(s) equivalent to the tree lost.

E. Bond Requirements (VIE)

A performance bond shall consist of a bond issued by a bonding company, a certificate of deposit, or irrevocable letter of credit (with automatic renewal) from a FDIC insured financial institution payable to The City of Jackson to ~~insure~~ ensure the installation of the replacement trees before any certificate of occupancy is granted. Replacement trees, where specific development plans have not been submitted, that are not to be installed within twelve (12) months of the date of the Development permit must be bonded.

Such bond and/or security shall be in an amount equal to the accurate value of installation and materials plus fifty (50) percent. Accurate value will be determined by one of the following options: 1) the average of two (2) documented estimates from commercial nurseries. The estimates are the responsibility of the owner/developer and are subject to confirmation, or 2) a value determined by Staff utilizing an established and accepted value per tree.

Upon satisfactory replacement of trees (s), posted security will be released after a re-inspection. Failure to install the replacement trees within six (6) months from the date the bond is received shall result in the forfeiture of the bond.

F. Protection of trees during development activities

Trees that are to be preserved shall be protected and maintained during the development activities in accordance with the tree protection and maintenance sections of the city's "Landscape Standards and Practices".

G. Credits available for preserving trees

For trees that are preserved within commercial developments, a reduction of required parking spaces may be allowed when the reduction would result in the preservation of a significant tree as defined herein.

The reduction in required parking may be granted only if it will prevent removal of a significant tree that is located within the area of the site designated as a parking lot area. The reduction of required parking spaces shall not exceed the number of parking spaces

required to prevent removal of significant trees, or the number in the following schedule, whichever is less.

Required Parking Spaces	Maximum Reduction
1-4	0
5-9	1
10-19	2
20 or more	15 percent

Preserved trees also qualify for credit under the landscape requirement of the Zoning Ordinance. The credit would be granted in accordance with the following schedule:

Any tree six (6) inches or greater dbh:	1 : 3
Any tree twelve (12) inches or greater dbh:	1 : 5
Any tree eighteen (18) inches or greater dbh:	1 : 10

The City Forester or designee may grant additional credit for saving historic and specimen trees.

SECTION 8. DEVELOPMENT PERMIT FEE SCHEDULE

The Site Development Permit Fee shall be the sum of the EDCP and VIE Fees, but a minimum of \$25.00.

The EDCP Fee shall be \$25.00 for each acre of land to be disturbed or fraction of an acre of land to be disturbed.

The VIE Fee shall be \$50.00.

SECTION 9. CONFLICTS WITH OTHER RULES AND REGULATIONS

If provisions of these rules and regulation conflict with other applicable laws, rules or regulations, the more stringent provision shall apply.

SECTION 10. ~~SITE DEVELOPMENT PERMIT ENFORCEMENT RESPONSE~~ ~~PLAN (ERP) PROCEDURES~~

A. Inspection

~~The City Engineer, City Forester or designee (Authorized Personnel) may enter upon any site and periodically make inspection of any disturbed area before, during and after construction to ensure compliance with the approved EDCP, VIE and Site Development Permit. If Authorized Personnel determine those significant problems are occurring on the site despite compliance with approved protective practices, the permit holder shall be required to take additional corrective actions to protect the adversely affected area. The specifications of the additional corrective actions measures shall be added as part of an amendment to the EDCP and/or VIE.~~

A. Enforcement authority:

The City shall have the authority to issue notices of violation and citations, and to impose civil penalties to anyone that violates this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the City. The City's enforcement authority includes (as set forth in the City's Enforcement Response Plan (ERP)):

1. Verbal Warnings – At a minimum, verbal warnings must specify the nature of the violation and required corrective action.
2. Written Notices – Written notices must stipulate the nature of the violation and the required corrective action, with deadlines for taking such action.
3. Citations with Administrative Penalties – The City has the authority to assess monetary penalties, which may include civil and administrative penalties.
4. Stop Work Orders – Stop work orders that require construction activities to be halted, except for those activities directed at cleaning up, abating discharge, and installing appropriate control measures.
5. Cease and Desist Order – The Cease and Desist Order will halt all activities except for those activities directed at cleaning up, abating discharge, and installing control measures.
6. Withholding of Plan Approvals or Other Authorizations – Where a facility is in noncompliance, the City's own approval process affecting the facility's ability to discharge to the MS4 can be used to abate the violation.
7. Additional Measures – The City may also use other escalated measures provided under local legal authorities. The City may perform work necessary to improve erosion control measures and collect the funds from the responsible party in an appropriate manner, such as collecting against the project's bond or directly billing the responsible party to pay for work and materials.

B. Notification of violation:

~~Authorized personnel will access site violations to make a determination of the appropriate enforcement action. A verbal warning or written notice of violation will be given to the permit holder. Verbal warnings and written notices will include the nature of the violation and the required corrective action with deadlines. Site violations are to be corrected within seven (7) calendar days of verbal and/or written notice.~~

Verbal warning:

~~Verbal warning may be given at the discretion of the inspector when it appears the condition can be corrected by the violator within a reasonable time, which time shall be approved by the inspector.~~

~~Written notice.~~

~~Whenever the City finds that any permittee or any other person discharging stormwater has violated or is violating this ordinance or a permit or order issued hereunder, the City may serve upon such person written notice of the violation. Within ten (10) days of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the City. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.~~

~~"Stop Work" Order:~~

~~A "Stop Work" order may be issued by Authorized Personnel if upon inspection, it is determined that control measures are not being properly maintained or that work is not progressing in accordance with the approved EDCP, VIE or Site Development Permit. A "Stop Work" order requires that all work on a site be halted until such time as Authorized Personnel lift the Stop Work order upon a passing inspection. Authorized Personnel shall set a compliance deadline in conjunction with the Stop Work order.~~

~~City Correction/Collection Procedures:~~

~~Should the Site Development Permit holder fail to remedy the above conditions by the compliance deadline, Authorized Personnel may remedy the condition or cause the same to be done by an appropriate City department or by other contractual arrangement. Upon completion of work, Authorized Personnel shall determine the reasonable costs thereof and bill the owner of the property.~~

1. Verbal warning. Verbal warning may be given at the discretion of the inspector when it appears the condition can be corrected by the violator within a reasonable time, which time shall be approved by the inspector.
2. Written notice. Whenever the City finds that any permittee or any other person discharging stormwater has violated or is violating this ordinance or a permit or order issued hereunder, the City may serve upon such person written notice of the violation. Within ten (10) days of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the City. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.
3. Consent orders. The City is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the

person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to paragraphs (d) and (e) below.

4. Show cause hearing. The City may order any person who violates this chapter or permit, or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.
5. Compliance order. When the City finds that any person has violated or continues to violate this chapter or a permit or order issued thereunder, he may issue an order to the violator directing that, following a specific time period, adequate structures or devices be installed and/or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.
6. Cease and desist and stop work orders. When the City finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder, the City may issue a stop work order or an order to cease and desist all such violations and direct those persons in noncompliance to:
 - a. Comply forthwith; or
 - b. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation; including halting operations except for terminating the discharge and installing appropriate control measures.
7. Suspension, revocation or modification of permit. The City may suspend, revoke or modify the permit authorizing the land development project or any other project of the applicant or other responsible person within the City. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated upon such conditions as the City may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.
8. Conflicting standards. Whenever there is a conflict between any standard contained in this chapter and in the BMP manual(s) adopted by the City under this ordinance, the strictest standard shall prevail.

SECTION 11. PENALTY FOR VIOLATIONS PENALTIES

Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the City, shall be guilty of a civil offense.

1. Penalties. Under the authority provided in Tennessee Code Annotated § 68-221-1106, the City declares that any person violating the provisions of this chapter may be assessed a civil penalty by the City of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.
2. Measuring civil penalties. In assessing a civil penalty, the City shall consider:
 - a. The harm done to the public health or the environment;
 - b. Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
 - c. The economic benefit gained by the violator;
 - d. The amount of effort put forth by the violator to remedy this violation;
 - e. Any unusual or extraordinary enforcement costs incurred by the City; The amount of penalty established by ordinance or resolution for specific categories of violations; and
 - f. Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.
3. Recovery of damages and costs. In addition to the civil penalty in subsection (1) above, the City may recover:
 - a. The lesser of \$450.00 per day for each day that the violation exists or all damages proximately caused by the violator to the City, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this chapter, or any other actual damages caused by the violation.
 - b. The costs of the City's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this chapter.
4. Referral to TDEC. In accordance with the City's Enforcement Response Plan and the NPDES Permit requirements, the City may also notify TDEC of violations.
5. No Site Development Permit. If site work begins prior to the owner/developer obtaining a Site Development Permit, the Permit Fee shall double and if the exact number of trees lost cannot be determined, the number of replacement trees shall be twice the required number of trees specified in Article VI, Section 23 Landscaping Requirements within the Zoning Ordinance of the City of Jackson, Tennessee.

6. Other remedies. The City may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.
7. Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted.

~~Any person, firm, or corporation violating any of the provisions of these rules and regulations shall be subject to the following administrative and legal penalties:~~

- ~~1. If site work begins prior to the owner/developer obtaining a Site Development Permit, the Permit Fee shall double and if the exact number of trees lost cannot be determined, the number of replacement trees shall be twice the required number of trees specified in Article VI, Section 23 Landscaping Requirements within the Zoning Ordinance of the City of Jackson, Tennessee.~~
- ~~2. The City shall have the right to recover the lesser of \$450.00 per day for each day that the violation exists or all damages proximately caused by the violation to the municipality, which may include any reasonable expenses incurred in investigating violations, expenses involved in rectifying any damages, costs and attorney fees incurred by the city as the result of enforcing violations of this ordinance.~~
- ~~3. In addition to the above remedial measures, any person, firm or corporation guilty of violating any of the provisions of these rules and regulations shall be subject to a fine civil penalty of not less than up to Fifty Dollars fifty dollars (\$50.00) or more than five thousand dollars per day for each day the violation exists, beginning the first day of the violation and continuing each day thereafter until the violation is corrected. Each day that a of violation exists shall constitute a separate offense.~~

SECTION 12. APPEALS AND VARIANCES

A. Appeals - Site Development Permit

Whenever Authorized Personnel shall revoke or refuse to issue a Site Development Permit for any reason, including an interpretation of these rules and regulations, any person affected by such refusal or revocation, or his duly authorized agent, may appeal that decision to the Environmental Advisory/Appeals Board (hereinafter, the "Board"). Appeals shall be in writing on forms provided by the City Engineer and shall be submitted to the City Engineer within thirty (30) days after the decision of the Authorized Personnel.

B. Appeals - Civil penalty or damage assessment

Pursuant to Tennessee Code Annotated § 68-221-1106(d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this chapter may appeal said penalty or damage assessment to the City's governing body.

1. Cease and Desist Order or assessment of correction costs. Any person aggrieved by the issuance of a Cease and Desist Order or assessment of correction costs per the City

Correction/Collection Procedures, may appeal such actions to the Environmental Advisory/Appeals Board. The Notice of Appeal shall be in writing on forms provided by the City and must be submitted to the City within thirty (30) days of the after the action that is being appealed. The hearing of the appeal shall be in accordance with the Bylaws of the Environmental Advisory/Appeals Board.

2. Appeals to be in writing. The appeal shall be in writing and filed with the municipal recorder or clerk within fifteen (15) days after the civil penalty and/or damage assessment is served in any manner authorized by law.
3. Public hearing. Upon receipt of an appeal, the City's governing body, or other appeals board established by the City's governing body shall hold a public hearing within thirty (30) days. Ten (10) days prior notice of the time, date, and location of said hearing shall be published in a daily newspaper of general circulation. Ten (10) days' notice by registered mail shall also be provided to the aggrieved party, such notice to be sent to the address provided by the aggrieved party at the time of appeal. The decision of the governing body of the city shall be final.
4. Appealing decisions of the City's governing body. Any alleged violator may appeal a decision of the City's governing body pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8.

C. Variances

The Board may vary the provisions of the Rules and Regulations in respect to a particular case when, in its opinion, the enforcement thereof would do manifest injustice, and would be contrary to the spirit and purpose of these rules & regulations, or public interest, or when, in its opinion, the interpretation of the Rules and Regulations by Authorized Personnel should be modified or reversed. Variances shall not violate any Federal, State or Local Ordinance. The Board shall, in every case, reach a decision without unreasonable or unnecessary delay. In reaching a decision, the Board must consider the specific requirements of state and federal law. If a decision of the Board reverses or modifies an decision or order by Authorized Personnel or varies the application of any provision of this code, the minutes of the meeting of the Board must be specific as to the reasons for the reversal, modification or change in application by the Board. Authorized Personnel shall immediately take action in accordance with such a decision. Every decision of the Board shall be final, subject however to such remedy as any aggrieved party might have at law or equity.

CITY OF JACKSON, TENNESSEE

RULES & REGULATIONS FOR THE CONTROL OF ILLICIT DISCHARGES TO THE CITY STORM SEWER SYSTEM

SECTION 1. AUTHORITY

These Rules and Regulations are promulgated pursuant to City of Jackson Code of Ordinances, Title 14, Chapter 6, titled "Regulations for Discharges into the Storm Sewer System".

SECTION 2. PURPOSE

The purpose of these rules and regulations is to provide for the health, safety, and general welfare of the citizens of the City of Jackson through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. These rules and regulations establish methods for controlling the introduction and discharges of pollutants into the Municipal Separate Storm Sewer System (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process, enable the City to comply with the current National Pollution Discharge Elimination System (NPDES) permit and applicable regulations, 40 CFR § 122 as applicable for stormwater discharges.

The objectives of these rules and regulations are:

- 1) To regulate the contribution of pollutants to the MS4 by stormwater discharges by any user.
- 2) To prohibit illicit connections and discharges to the MS4.
- 3) To establish procedures to carry out all inspection, surveillance, monitoring, and enforcement necessary to ensure compliance with these rules and regulations.

These rules and regulations are a part of the City of Jackson's Stormwater Management Program and are intended to prevent certain non-stormwater discharges to and improper disposal of contaminants in the storm sewer system, to reduce, to the maximum extent practicable, pollutants that may be present in the outfalls from the storm sewer system.

SECTION 3 DEFINITIONS

For the purpose of these rules and regulations, the following shall mean:

Administrative or Civil Penalties. Under the authority provided in Tennessee Code Annotated § 68-221-1106, the City declares that any person violating the provisions of this chapter may be assessed a civil penalty by the City of not less than fifty dollars (\$50.00) and

not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.

Board. Also referred to as the Environmental Advisory/Appeals Board.

Clean Water Act (CWA). ~~The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.~~ The Clean Water Act of 1977 or the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq.).

City. Also referred to as the City of Jackson.

Construction Activity. Activities which include but are not limited to clearing and grubbing, grading, excavating, and demolition.

Discharge or discharge of a pollutant. The addition of pollutants to waters from a source.

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

Hot spot. An area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. Examples might include operations producing concrete or asphalt, auto repair shops, auto supply shops, large commercial parking areas and restaurants.

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

- (i) Any discharge to a MS4 that is not composed entirely of stormwater.
- (ii) Any infiltration into the ~~storm drain~~ storm drain system resulting from spills, illegal dumping, and contaminated runoff from residential, commercial and industrial properties.

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

- (i) Any drain or conveyance, whether on the surface or subsurface that allows an illicit discharge to enter the storm drain system including but not limited to any conveyances that allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,
- (ii) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial Activity.—Activities subject to NPDES Industrial permits as defined in 40 CFR, Section 122.26 (b)(140).

Municipal Separate Storm Sewer System (MS4). The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

- (i) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law)...including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the Clean Water Act that discharges into waters of the United States.
- (ii) Designed or used for collecting or conveying stormwater;
- (iii) Which is not a combined sewer; and
- (iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.”

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

Non-Stormwater Discharge. Any discharge to the storm drain system that is not composed entirely of stormwater.

Outfall. ~~The point where water flows out from a conduit, drain, or stream.~~ Location where stormwater exits the facility property, including pipes, ditches, swales, and other structures that transport stormwater.

Person. Any and all persons, including individuals, firms, partnerships, associations, public or private institutions, state or federal agencies, municipalities or political subdivisions or public or private corporations.

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

Potable Water. Any water from a public water supply system or private well that is suitable to drink.

Significant Contributor. A source of pollutants where the volume, concentration, or mass of a pollutant in a stormwater discharge can cause or threaten to cause pollution, contamination, or nuisance that adversely impact human health or the environment and cause or contribute to a violation of any applicable water quality standards for receiving water.

Storm Sewer System. A system of roadside drainage ditches, street curbs & gutters, curb inlets, catch basins, pipes, culverts, manholes, basins and natural & manmade channels and swales, located within the City of Jackson and owned by the City of Jackson.

Stormwater. ~~Any runoff from rain, snow or other form(s) of precipitation.~~ Rainfall runoff, snow melt runoff, and surface runoff and drainage.

Stormwater control measure or SCM. Permanent practices and measures designed to reduce the discharge of pollutants from new development projects or redevelopment projects.

Stormwater associated with industrial activity. Defined in 40 C.F.R. 122.26(b)(14) and incorporated here by reference. Most relevant to the City is 40 C.F.R. 122.26(b)(14)(x), which relates to construction activity including clearing, grading, filling and excavation activities, including borrow pits containing erodible material. Disturbance of soil for the purpose of crop production is exempt from NPDES permit requirements, but stormwater discharges from agriculture-related activities that involve construction of structures (e.g., barn construction, road construction, pond construction) are considered associated with industrial (construction) activity. Maintenance to the original line and grade, hydraulic capacity; or to the original purpose of the facility (e.g., re-clearing, minor excavation performed around an existing structure necessary for maintenance or repair and repaving of an existing road) is not considered a construction activity.

Stormwater discharge- construction related activities. Activities that cause, contribute to or result in point source stormwater pollutant discharges. These activities may include excavation, site development, grading and other surface disturbance activities; and activities to control stormwater including the siting, construction and operation of best management practices (BMPs).

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

Stream. Defined by TCA 69-3-103(38) "stream" means a surface water that is not a wet weather conveyance.

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

SECTION 4. PROHIBITION OF ILLICIT DISCHARGES

No person shall discharge or cause to be discharged into the municipal separate storm sewer system ~~or water~~ ~~recourses~~ any discharge that is not composed entirely of stormwater. ~~materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.~~ No person shall allow discharges that flow from a stormwater facility that is not inspected in accordance with the City's Rules and Regulations for the Control of Soil Erosion and Stormwater - Section 6.C. Non-stormwater discharges shall include, but shall not be limited to, sanitary wastewater, car wash wastewater, radiator flushing disposal, spills from roadway accidents, carpet cleaning wastewater, effluent from septic tanks, improper oil disposal, laundry wastewater/gray water, improper disposal of auto and household toxics.

~~A person, who is the operator of a facility, commits an offense if the person discharges, or causes to be discharged, stormwater associated with industrial or commercial activity without first having obtained a NPDES permit to do so.~~

The commencement, conduct or continuance of any non-stormwater discharge to the municipal separate storm sewer system ~~illicit discharge to the storm drain system~~ is prohibited except as described in Section 5.

SECTION 5. EXCEPTIONS TO ILLICIT DISCHARGES

Discharges to the storm sewer system that are in accordance with a valid NPDES Permit shall not be considered illicit discharges under these rules and regulations. Any person who holds or obtains a valid NPDES Permit to discharge to the storm sewer system shall provide a copy of the permit to Stormwater Management upon request.

~~Non-contaminated discharges from the following sources shall be exempt from these rules and regulations:~~

The following are categories of non-stormwater discharges or flows (i.e., illicit discharges) that are not identified as a significant contributor of pollutants to the City Storm Sewer System:

- ~~1. Water line flushing or other potable water sources,~~
- ~~2. Landscape irrigation or lawn watering with potable water,~~
- ~~3. Groundwater infiltration to storm drains,~~
- ~~4. Pumped groundwater and spring water,~~
- ~~5. Water from crawl spaces, foundations and footing drains,~~
- ~~6. Air conditioning condensate and once-through water from groundwater heat pump systems,~~
- ~~7. Non-commercial washing of vehicles,~~
- ~~8. Natural riparian habitat or wetland flows,~~
- ~~9. Dechlorinated swimming pool discharges (less than one (1) ppm chlorine),~~
- ~~10. Water from fire fighting activities, and~~
- ~~11. Any other non-contaminated water source.~~
 1. Water line flushing

2. Landscape irrigation
3. Diverted stream flows
4. Rising ground waters
5. Uncontaminated ground water infiltration (Infiltration is defined as water other than wastewater that enters a sewer system, including sewer service connections and foundation drains, from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.)
6. Uncontaminated pumped ground water
7. Discharges from potable water sources
8. Air conditioning condensation
9. Irrigation water
10. Springs
11. Water from crawl space pumps
12. Footing (foundation) drains
13. Lawn watering
14. Individual residential car washing
15. Flows from riparian habitats and wetlands
16. Dechlorinated swimming pool discharges
17. Street wash water with no soaps or solvents
18. Discharges or flows from firefighting activities

Unless the City determines they are significant contributors of pollutants to the MS4.

SECTION 6. PROHIBITION OF ILLICIT CONNECTIONS

The construction, use, maintenance or continued existence of illicit connections to the storm sewer system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under laws or practices applicable or prevailing at the time of connection. This prohibition expressly includes SCM's connected to the system not properly inspected and maintained in accordance with this ordinance.

~~A person is considered to be in violation of these rules and regulations if the person connects a line conveying sewage to the MS4, or allows such a connection to continue. Improper connections in violation of these rules and regulations must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system.~~

Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMP's necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. Discharges from existing SCM's that have not been maintained and/or inspected in accordance with this ordinance shall be prohibited.

SECTION 7. NOTIFICATION OF SPILLS

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into the storm sewer system, the person shall take all necessary steps to ensure the discovery, containment and cleanup of such release.

In the event of release of hazardous materials, the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the City of Jackson Stormwater Management in person, or by telephone, fax or facsimile email no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City of Jackson Stormwater Management within three (3) business days of the telephone notice.

If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent it recurrence. Such records shall be retained for at least three (3) years.

SECTION 8. ILLEGAL DUMPING

No person shall dump or otherwise deposit outside an authorized landfill, convenience center or other authorized garbage or trash collection point, any trash or garbage of any kind or description on any private or public property, occupied or unoccupied, inside the City of Jackson. Such illegal activity exposes runoff to contamination, generating an illicit discharge. Therefore, any individual or corporation guilty of illegal dumping may have committed a violation of this ordinance.

SECTION 89. VIOLATIONS, ENFORCEMENT AND PENALTIES:

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of the rules and regulations for the Control of Illicit Discharges to the City

Storm Sewer System. Any person who has violated or continues to violate the provisions of these rules and regulations, may be subject to the enforcement response plan (ERP) actions outlined in this the next section.

In the event the violation constitutes an immediate danger to public health or public safety, the City of Jackson is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to correct the violation and/or restore the property.

Stormwater Management personnel will periodically conduct visual screening and field tests of storm sewer system outfalls to detect illicit discharges. Reports submitted to Stormwater Management by the general public and/or City Departments will also be investigated. Illicit discharge complaint investigations will be performed within seven (7) days of receiving the complaint. Upon detection of an illicit discharge, an attempt will be made to trace the discharge to its source. Upon verification of an illicit discharge source, the following enforcement response plan (ERP) procedures will be applicable implemented.

SECTION 8.10. ENFORCEMENT

A. Enforcement authority.

The City of Jackson shall have the authority to issue notices of violation and citations, and to impose civil penalties to anyone that violates this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the City, The City's enforcement authority includes (as set forth in the City's Enforcement Response Plan (ERP)):

1. Verbal Warnings – At a minimum, verbal warnings must specify the nature of the violation and required corrective action.
2. Written Notices – Written notices must stipulate the nature of the violation and the required corrective action, with deadlines for taking such action.
3. Citations with Administrative Penalties – The City has the authority to assess monetary penalties, which may include civil and administrative penalties.
4. Stop Work Orders – Stop work orders that require construction activities to be halted, except for those activities directed at cleaning up, abating discharge, and installing appropriate control measures.
5. Cease and Desist Order – The Cease and Desist Order will halt all activities except for those activities directed at cleaning up, abating discharge, and installing control measures.
6. Withholding of Plan Approvals or Other Authorizations – Where a facility is in noncompliance, the City's own approval process affecting the facility's ability to discharge to the MS4 can be used to abate the violation.

7. **Additional Measures** – The City may also use other escalated measures provided under local legal authorities. The City may perform work necessary to improve erosion control measures and collect the funds from the responsible party in an appropriate manner, such as collecting against the project's bond or directly billing the responsible party to pay for work and materials.

B. Notification of Violation.

1. **Verbal warning.** Verbal warning may be given at the discretion of the inspector when it appears the condition can be corrected by the violator within a reasonable time, which time shall be approved by the inspector.
2. **Written notice.** Whenever the City finds that any permittee or any other person discharging stormwater has violated or is violating this ordinance or a permit or order issued hereunder, the City may serve upon such person written notice of the violation. Within ten (10) days of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the City. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.
3. **Consent orders.** The City is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to paragraphs (d) and (e) below.
4. **Show cause hearing.** The City may order any person who violates this chapter or permit, or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.
5. **Compliance order.** When the City finds that any person has violated or continues to violate this chapter or a permit or order issued thereunder, he may issue an order to the violator directing that, following a specific time period, adequate structures or devices be installed and/or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.
6. **Cease and desist and stop work orders.** When the City finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder,

the City may issue a stop work order or an order to cease and desist all such violations and direct those persons in noncompliance to:

- a. Comply forthwith; or
 - b. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation; including halting operations except for terminating the discharge and installing appropriate control measures.
7. Suspension, revocation or modification of permit. The City may suspend, revoke or modify the permit authorizing the land development project or any other project of the applicant or other responsible person within the City. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated upon such conditions as the City may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.
8. Conflicting standards. Whenever there is a conflict between any standard contained in this chapter and in the BMP manual(s) adopted by the City under this ordinance, the strictest standard shall prevail.

C. Penalties.

Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the City, shall be guilty of a civil offense.

1. Penalties. Under the authority provided in Tennessee Code Annotated § 68-221-1106, the City declares that any person violating the provisions of this chapter may be assessed a civil penalty by the City of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.
2. Measuring civil penalties. In assessing a civil penalty, the City shall consider:
 - a. The harm done to the public health or the environment;
 - b. Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
 - c. The economic benefit gained by the violator;
 - d. The amount of effort put forth by the violator to remedy this violation;
 - e. Any unusual or extraordinary enforcement costs incurred by the City; The amount of penalty established by ordinance or resolution for specific categories of violations; and

- f. Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.
- 3. Recovery of damages and costs. In addition to the civil penalty in subsection (2) above, the City may recover:
 - a. All damages proximately caused by the violator to the City, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this chapter, or any other actual damages caused by the violation.
 - b. The costs of the City's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this chapter.
- 4. Referral to TDEC. In accordance with the City's Enforcement Response Plan and the NPDES Permit requirements, the City may also notify TDEC of violations.
- 5. Other remedies. The City may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.
- 6. Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted.

SECTION 10 II. APPEALS AND VARIANCES

Pursuant to Tennessee Code Annotated § 68-221-1106(d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this chapter may appeal said penalty or damage assessment to the City's governing body.

- A. Cease and Desist Order or assessment of correction costs. Any person aggrieved by the issuance of a Cease and Desist Order or assessment of correction costs per the City Correction/Collection Procedures, may appeal such actions to the Environmental Advisory/Appeals Board. The Notice of Appeal shall be in writing on forms provided by Stormwater Management and must be submitted to Stormwater Management within thirty (30) days of the after the action that is being appealed. The hearing of the appeal shall be in accordance with the Bylaws of the Environmental Advisory/Appeals Board.
- B. Appeals to be in writing. The appeal shall be in writing and filed with the municipal recorder or clerk within fifteen (15) days after the civil penalty and/or damage assessment is served in any manner authorized by law.
- C. Public hearing. Upon receipt of an appeal, the City's governing body, or other appeals board established by the City's governing body shall hold a public hearing within thirty (30) days. Ten (10) days prior notice of the time, date, and location of said hearing shall be published in a daily newspaper of general circulation. Ten (10) days' notice by

registered mail shall also be provided to the aggrieved party, such notice to be sent to the address provided by the aggrieved party at the time of appeal. The decision of the governing body of the city shall be final.

- D. Appealing decisions of the City's governing body. Any alleged violator may appeal a decision of the City's governing body pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8.

- E. Variances.

The Environmental Advisory/Appeals Board may vary the provisions of these rules and regulations in those situations where, in the Board's opinion, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of this code, or public interest, or when, in its opinion, the interpretation of the rules and regulations by Stormwater Management should be modified or reversed. Variances shall not violate any Federal, State or Local ordinance, law, rule or regulation or permit issued to the City of Jackson. If the decision of the Board reverses or modifies an order or assessment of Stormwater Management or varies the application of any provisions of this code, the minutes of the meeting of the Board must be specific as to the reasons for the reversal, modification or change. Stormwater Management shall immediately take action in accordance with such decision. Every decision of the Board shall be final; subject however to such remedy as any aggrieved person might have at law and equity.

SECTION 89. — VIOLATIONS, ENFORCEMENT AND PENALTIES:

~~It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of the rules and regulations for the Control of Illicit Discharges to the City Storm Sewer System. Any person who has violated or continues to violate the provisions of these rules and regulations, may be subject to the enforcement response plan (ERP) actions outlined in this section.~~

~~In the event the violation constitutes an immediate danger to public health or public safety, the City of Jackson is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to correct the violation and/or restore the property.~~

~~Stormwater Management personnel will periodically conduct visual screening and field tests of storm sewer system outfalls to detect illicit discharges. Reports submitted to Stormwater Management by the general public and/or City Departments will also be investigated. Illicit discharge complaint investigations will be performed within seven (7) days of receiving the complaint. Upon detection of an illicit discharge, an attempt will be made to trace the discharge to its source. Upon verification of an illicit discharge source, the following enforcement response plan (ERP) procedures will be applicable implemented:~~

~~A. Notification of violation:~~

~~The responsible person will be given a verbal warning and sent a written notice of violation that will explain the nature of the violation(s) and require the submission of a corrective action plan within seven (7) calendar days of the written notice. The corrective action plan will address specific actions to be taken by the responsible person and provide a schedule for the elimination of the illicit discharge.~~

~~B. Cease and Desist Order:~~

Where there is an immediate threat to public health and safety or a threat to the receiving waters, Stormwater Management personnel will serve the responsible person with a Cease and Desist order requiring immediate elimination of the illicit discharge. The Cease and Desist Order shall be followed by written notice via certified mail within three (3) business days. The Cease and Desist order will halt all activities except for those activities directed at cleaning up, abating discharge, and installing control measures. Plan approvals and other authorizations may be withheld until corrective actions are completed.

C. City Correction/Collection Procedures:

Should the responsible person fail to take appropriate actions to eliminate the illicit discharge within the prescribed or agreed upon time, Stormwater Management may remedy the condition or cause the same to be remedied by a City Department or outside contractor. Upon completion of the work, Stormwater Management shall determine the reasonable cost of the corrective action(s) and bill the responsible person.

D. Penalties:

Any person violating any of the provisions of these rules and regulations and cited into City Court by Stormwater Management shall be subject to the following civil penalties and/or legal actions:

1. The City shall have the right to recover all damages proximately caused by the violation to the municipality not to exceed \$450.00 times the number of days that the violation exists, which may include any reasonable expenses incurred in investigating violations, expenses involved in rectifying any damages, cost and attorney fees incurred by the city as the result of enforcing these rules and regulations.
2. Under the authority provided in Tennessee Code Annotated § 68-221-1106, the City declares that any person guilty of violating any of the provisions of these rules and regulations shall be subject to a fine civil penalty by the city of not less than up to fifty dollars fifty dollars (\$50.00) or more than five thousand dollars (\$5,000.00) per day for each day the violation exists, beginning the first day of the violation and continuing each day thereafter until the violation is corrected. Each day that a of violation exists shall constitute a separate offense.
3. The City of Jackson may bring legal action to enjoin the continuing violation of these rules and regulations and the existence of any other remedy, at law or equity, shall be no defense to any such actions.
4. The remedies and penalties set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one or more of the remedies set forth herein has been sought or granted.

SECTION 910. APPEALS

Pursuant to Tennessee Code Annotated § 68-221-1106(d), any person aggrieved by the issuance of a Cease and Desist Order or assessment of correction costs per the City Correction/Collection Procedures, may appeal such actions to the Environmental Advisory/Appeals Board. The Notice of Appeal shall be in writing on forms provided by Stormwater Management and must be submitted to Stormwater Management within thirty

(30) days of the after the action that is being appealed. The hearing of the appeal shall be in accordance with the Bylaws of the Environmental Advisory/Appeals Board.

Variances:

The Environmental Advisory/Appeals Board may vary the provisions of these rules and regulations in those situations where, in the Board's opinion, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of this code, or public interest, or when, in its opinion, the interpretation of the rules and regulations by Stormwater Management should be modified or reversed. Variances shall not violate any Federal, State or Local ordinance, law, rule or regulation or permit issued to the City of Jackson. If the decision of the Board reverses or modifies an order or assessment of Stormwater Management or varies the application of any provisions of this code, the minutes of the meeting of the Board must be specific as to the reasons for the reversal, modification or change. Stormwater Management shall immediately take action in accordance with such decision. Every decision of the Board shall be final; subject however to such remedy as any aggrieved person might have at law and equity.