MUNICIPAL BUILDING, MOBILE, ALABAMA, MAY 12, 2020

The Council of the City of Mobile, Alabama met remotely via virtual meeting on Tuesday, May 12, 2020, at 9:00 a.m.

Present:

Chairman:	Manzie
Councilmembers:	Richardson, Small, Williams, Daves, Rich and Gregory
Absent:	None

The meeting was called to order. The Council reviewed and discussed the agenda for their meeting to be held today at 10:30 a.m.

Adopted: May 19, 2020

_____

COUNCIL PRESIDENT

_____

CITY CLERK

MUNICIPAL BUILDING, MOBILE, ALABAMA, MAY 12, 2020

The City Council of the City of Mobile, Alabama met remotely via virtual meeting, on Tuesday, May 12, 2020, at 10:30 a.m., in regular meeting.

The meeting was called to order by City Clerk Lisa C. Lambert.

Mayor William S. Stimpson offered the invocation.

The Presiding Officer led the Pledge of Allegiance.

Present on Roll Call:

Chairman:	Manzie
Councilmembers:	Richardson, Small, Williams, Daves, Rich and Gregory
Absent:	None

STATEMENT OF RULES BY PRESIDING OFFICER:

The Presiding Officer provided an overview of the City Council rules of procedure, to include special provisions to facilitate social distancing because of the Covid-19 virus.

President Manzie stated:

“Good Morning.

In response to national, state and local guidance due to the COVID-19 pandemic and in accordance with the Alabama Open Meetings Act and the Governor’s supplemental emergency proclamation, we are now meeting remotely and will continue to for at least the next 2 weeks.

While we are all in different places, we are able to participate as if we were all in the council chambers at City Hall and in keeping with the requirements of the Alabama Open Meetings Act; the public is still able to observe the meeting through the livestream.

All items we will address during this meeting are either necessary to respond to COVID-19, or necessary to perform essential minimum functions of the City.

The public is still able to present comments to the Council by e-mailing them to cityclerk@cityofmobile.org up to 30 minutes prior to the meeting. Public comments which will be acknowledged as received during the meeting, distributed to Councilmembers and included in the meeting minutes.

As always, the meeting is livestreamed and can be viewed through the city's website or on the Council's Facebook page.

Thank you for joining us."

APPROVAL OF MINUTES:

The minutes of the meeting of May 5, 2020 were approved as submitted.

COMMUNICATIONS FROM THE MAYOR:

Mayor Stimpson answered questions from the Council regarding City employees returning to work.

Mayor Stimpson stated that the City has received over 300 applications for the "Ignite Mobile" grant.

Mayor Stimpson commented that trash collection for the month of April increased by 56% from the same time last year.

ADOPTION OF THE AGENDA:

Councilmember Richardson moved to adopt the agenda, which move was seconded by Councilmember Rich.

Councilmember Daves moved to amend the agenda by taking Public Hearings out of order, which move was seconded by Councilmember Small and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves, Rich and Gregory
Nays: None

The vote was then announced by the City Clerk whereupon the Presiding Officer declared the amendment adopted.

The Presiding Officer then called for the vote on the original motion as amended and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves, Rich and Gregory
Nays: None

The vote was then announced by the City Clerk whereupon the Presiding Officer declared the agenda adopted as amended.

PUBLIC HEARINGS:

PUBLIC HEARING FOR DETERMINATION OF THE FORMATION OF THE MOBILE TOURISM DISTRICT.

The Presiding Officer announced that today was the day for the public hearing for determination of the formation of the Mobile Tourism District and asked if there was anyone present to speak for or against this matter.

The following people spoke in support of the matter:

1. David Clark, 1 South Water Street
2. Kent Blackinton, 9131 Lakeview Drive, Fairhope, Alabama
3. Margo Gilbert, 9412 Aspen Circle, Daphne, Alabama

4. Elizabeth Stevens, 261 Dauphin Street

The Presiding Officer declared the hearing concluded and that the necessary ordinance authorizing the proper action would be introduced at a later date.

PUBLIC HEARING TO CONSIDER APPROVAL OF A SPECIAL EMERGENCY GRANT PROGRAM KNOWN AS "IGNITE MOBILE."

The Presiding Officer announced that today was the day for the public hearing to consider approval of a special emergency grant program known as "Ignite Mobile" and asked if there was anyone present to speak for or against this matter.

No one appeared.

The Presiding Officer declared the hearing concluded and that the necessary resolution authorizing the proper action would be introduced at a later date.

ESSENTIAL / COVID-19 ITEMS HELD OVER:

ORDINANCE TO AMEND THE CITY'S BUSINESS LICENSE CODE TO EXEMPT PERSONS OFFERING PARKING SPACES ON PRIVATE PROPERTY WITHIN A ONE-MILE RADIUS OF LADD-PEEBLES STADIUM FROM OBTAINING A BUSINESS LICENSE. The following ordinance, which was introduced and read at the regular meeting of May 5, 2020 and held over until the regular meeting of May 12, 2020, was called up by the Presiding Officer.

RESOLUTION: 34-012-2020

Sponsored by: Councilmember Manzie

AN ORDINANCE TO AMEND THE CITY'S BUSINESS LICENSE CODE TO EXEMPT PERSONS OFFERING PARKING SPACE ON PRIVATE RESIDENTIAL PROPERTY FROM THE REQUIREMENT TO OBTAIN A BUSINESS LICENSE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA, as follows:

SECTION ONE: That the Schedule of Licenses section for NAICS Code 812930 for "Parking Lots," Code 301.0A, set forth in Article III of Chapter 34 of the Mobile City Code titled "Business License Code and Schedule of Licenses," is hereby amended and restated to read as follows:

812930	301.0A	Parking lots Any person offering parking space on private property located within a one-mile radius of Ladd-Peebles Stadium for rental on days when football games are scheduled at Ladd-Peebles Stadium shall be exempt from the requirement to obtain a business license, provided that such person owns the private property on which parking space is being offered for rent; or, if the person offering parking space for rent on such game days is not the owner of the private property on which parking space is being offered for rent, such person must first obtain written permission from the property owner to use the private property to provide parking space for rent on such game days. Additionally, any person offering parking space on private, residentially zoned property anywhere within the City of Mobile or its police jurisdiction shall be exempt from the requirement to obtain a business license, provided that such person owns the private, residentially zoned property on which parking space is being offered for rent; or, if the person offering such parking space for rent is not the owner of the private, residentially zoned property on which parking space is being offered for rent, such person must first obtain written permission from the property owner to use the private residentially zoned property to provide parking space. These exemptions are applicable only to natural persons; any firm, partnership, limited liability company, corporation,	0.002800
		association, membership cooperative, agency, group, or other organization, entity or association is subject to the provisions of the Business License Code and Schedule of Licenses requiring payment of an annual business license fee; except that any organization organized and operated exclusively for charitable, religious, educational, or other exempt purposes set forth in section 501(c)(3) of the United States Internal Revenue Code and that is certified as a not-for-profit organization under Section 501(c)(3) shall be exempt from the requirement to obtain a business license for the activity of offering parking space on private property for rent on days when football games are scheduled at Ladd-Peebles Stadium, or on private, residentially zoned property anywhere within the City of Mobile or its police jurisdiction.	

SECTION TWO: All other provisions and sections of the Business License Code and Schedule of Licenses shall remain in full force and effect.

SECTION THREE: The provisions of this Ordinance are severable. If any part of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, that declaration shall not affect the part or parts that remain.

SECTION FOUR: The Ordinance shall be effective immediately upon its enactment and publication as required by law.

The ordinance was read by the City Clerk; whereupon Councilmember Daves moved that the ordinance be held over until the regular meeting of May 19, 2020, which was seconded by Councilmember Small and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves, Rich and Gregory
Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the ordinance held over.

APPROVE PURCHASE ORDER TO CDW GOVERNMENT, LLC FOR FOUNDATION CARE SOFTWARE & SUPPORT FOR ARUBA SWITCH HARDWARE, $79,849.57. The following resolution, which was introduced and read at the regular meeting of May 5, 2020 and held over until the regular meeting of May 12, 2020, was called up by the Presiding Officer.

RESOLUTION: 08-326-2020

Sponsored by: Mayor Stimpson

BE IT RESOLVED BY THE CITY COUNCIL OF MOBILE, ALABAMA, that the Purchasing Agent is authorized to execute, for and on behalf of the City of Mobile, a purchase order to the indicated vendor in the approximate amount stated, and to approve the supporting bid award if required, for the following requisition as indicated below and attached herein:

Requisition	Fiscal Year	Department	Description	Amount	Vendor
10409	2020	(5000) INFORMATION TECHNOLOGY	FOUNDATION CARE SOFTWARE & SUPPORT FOR ARUBA SWITCH HARDWARE; TRAINING; 10 ARUBA SWITCHES; 18 POWER SUPPLIES; SWITHC RACK; 3 EXPANSION MODULES; TRANSCEIVER; LICENSES (NATIONAL IPA AND SOURCEWELL COOPERATIVE PURCHASING AGREEMENTS)	$79,849.57	(272932) CDW GOVERNMENT LLC

BE IT FURTHER RESOLVED THAT the City Council of the City of Mobile, Alabama, finds that this resolution is either necessary to respond to COVID-19 or necessary to perform essential minimum functions of the Council.

The resolution was read by the City Clerk; whereupon Councilmember Williams moved that the resolution be adopted, which was seconded by Councilmember Daves and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves, Rich and Gregory
Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution adopted.

APPROVE PURCHASE ORDER TO TAYLOR POWER SYSTEMS FOR TWO GENERATORS FOR PUBLIC WORKS, $43,720.00. The following resolution, which was introduced and read at the regular meeting of May 5, 2020 and held over until the regular meeting of May 12, 2020, was called up by the Presiding Officer.

RESOLUTION: 08-327-2020

Sponsored by: Mayor Stimpson

BE IT RESOLVED BY THE CITY COUNCIL OF MOBILE, ALABAMA, that the Purchasing Agent is authorized to execute, for and on behalf of the City of Mobile, a purchase order to the indicated vendor in the approximate amount stated, and to approve the supporting bid award if required, for the following requisition as indicated below and attached herein:

Requisition	Fiscal Year	Department	Description	Amount	Vendor
10315	2020	(2062) ELECTRICAL	1 60KW GENERATOR; 1 80 KW GENERATOR (SEALED BID 5383)	$43,720.00	(289551) TAYLOR POWER SYSTEMS

BE IT FURTHER RESOLVED THAT the City Council of the City of Mobile, Alabama, finds that this resolution is either necessary to respond to COVID-19 or necessary to perform essential minimum functions of the Council.

The resolution was read by the City Clerk; whereupon Councilmember Williams moved that the resolution be adopted, which was seconded by Councilmember Daves and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves, Rich and Gregory
Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution adopted.

APPROVE TRANSFER OF FUNDS TO GRANT ACCOUNT SIDEWALKS ALONG OLD SHELL ROAD FROM PARKWAY DRIVE TO UNIVERSITY BOULEVARD. The following resolution, which was introduced and read at the regular meeting of May 5, 2020 and held over until the regular meeting of May 12, 2020, was called up by the Presiding Officer.

RESOLUTION: 09-328-2020

Sponsored by: Councilmember Gregory

WHEREAS, the City Council of the City of Mobile, Alabama, finds that the subject of this Resolution is either necessary to respond to COVID 19, or necessary to perform essential minimum functions of the Council.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA, that the sum of $163,500.00 be reallocated from Capital Project (C0422) 2019 OSR TAP PARKWAY-UNIVERSITY 20002000.48050 to Grant Fund (G-TAPOLDSH) TRANSPORTATION ALTERNATIVE PROJECT SIDEWALKS OLD SHELL ROAD TAPMB-17(950) - 50015001.93030. These funds will be a grant match for the installation of sidewalks along Old Shell Road from Parkway Drive, W. to University Blvd.

The resolution was read by the City Clerk; whereupon Councilmember Williams moved that the resolution be adopted, which was seconded by Councilmember Daves and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves, Rich and Gregory
Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution adopted.

AUTHORIZE CONTRACT WITH CORPORATE ENVIRONMENTAL RISK MANAGEMENT TO PERFORM PROFESSIONAL ENGINEERING SERVICES FOR LITTLER FLOWER AVENUE ROADWAY REPAIRS (GOVERNMENT STREET TO AIRPORT BOULEVARD), $24,700.00. The following resolution, which was introduced and read at the regular meeting of May 5, 2020 and held over until the regular meeting of May 12, 2020, was called up by the Presiding Officer.

RESOLUTION: 21-329-2020

Sponsored by: Councilmember Manzie and Mayor Stimpson

BE IT RESOLVED BY THE CITY COUNCIL OF MOBILE. ALABAMA, that the Mayor and the City Clerk be, and they hereby are, authorized and directed to execute and attest, respectively, for and on behalf of the City of Mobile, a contract, by and between the City of Mobile and the company listed below, for work as outlined in the contract attached hereto and made a part hereof as set forth in full, subject to the company signing the contract and furnishing the required bonds and Insurance. A copy of said executed contract will be on file in the office of the City Clerk.

BE IT FURTHER RESOLVED that the City Council of the City of Mobile. Alabama, finds that this resolution is either necessary to respond to COVID-19 or necessary to perform essential minimum functions of the Council.

Name of company: Corporate Environmental Risk Management

Project name: Little Flower Avenue Roadway Repair CEI, D #2, COM project no. 2016-3005-09

COM project no.: 2018-3005-09

Estimated cost: $24,700.00

The resolution was read by the City Clerk; whereupon Councilmember Williams moved that the resolution be adopted, which was seconded by Councilmember Daves and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves, Rich and Gregory
Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution adopted.

AUTHORIZE CONTRACT WITH MOTT MACDONALD ALABAMA, LLC TO PERFORM PROFESSIONAL ENGINEERING SERVICES FOR CONCRETE ROADWAY IMPROVEMENT (RESONANT MACHINE DEMO), $31,000.00. The following resolution, which was introduced and read at the regular meeting of May 5, 2020 and held over until the regular meeting of May 12, 2020, was called up by the Presiding Officer.

RESOLUTION: 21-330-2020

Sponsored by: Councilmembers Richardson, Manzie and Daves

and Mayor Stimpson

BE IT RESOLVED BY THE CITY COUNCIL OF MOBILE. ALABAMA, that the Mayor and the City Clerk be, and they hereby are, authorized and directed to execute and attest, respectively, for and on behalf of the City of Mobile, a contract, by and between the City of Mobile and the company listed below, for work as outlined in the contract attached hereto and made a part hereof as set forth in full, subject to the company signing the contract and furnishing the required bonds and Insurance. A copy of said executed contract will be on file in the office of the City Clerk.

BE IT FURTHER RESOLVED that the City Council of the City of Mobile. Alabama, finds that this resolution is either necessary to respond to COVID-19 or necessary to perform essential minimum functions of the Council.

Name of company: Mott MacDonald Alabama, LLC

Project name: Concrete Roadway Improvements, D #1, 2 & 5
COM project no. 2020-3005-05

Estimated cost: $31,000.00

The resolution was read by the City Clerk; whereupon Councilmember Williams moved that the resolution be adopted, which was seconded by Councilmember Daves and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves, Rich and Gregory
Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution adopted.

AUTHORIZE CONTRACT WITH. CORNELL MALONE CORPORATION FOR GULF COAST EXPLOREUM-ROOFING, $483,400.00. The following resolution, which was introduced and read at the regular meeting of May 5, 2020 and held over until the regular meeting of May 12, 2020, was called up by the Presiding Officer.

RESOLUTION: 21-332-2020

Sponsored by: Councilmember Manzie and Mayor Stimpson

BE IT RESOLVED BY THE CITY COUNCIL OF MOBILE. ALABAMA, that the Mayor and the City Clerk be, and they hereby are, authorized and directed to execute and attest, respectively, for and on behalf of the City of Mobile, a Contract, that is necessary to perform essential minimum functions of the Council, by and between the City of Mobile, and the company listed below, for work as outlined in the contract attached hereto and made a part hereof as though set forth, in full. A copy of said contract is on file in the office of the City Clerk.

Name of company: E. Cornell Malone Corporation

Project name: Gulf Coast Exploreum - Roofing

Project number: MU-073-19

Amount: $483,400.00

The resolution was read by the City Clerk; whereupon Councilmember Williams moved that the resolution be adopted, which was seconded by Councilmember Daves and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves, Rich and Gregory
Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution adopted.

AUTHORIZE CONTRACT WITH MCCRORY & WILLIAMS FOR OLD SHELL ROAD SIDEWALKS (CEI) FROM PARKWAY DRIVE W. TO UNIVERSITY BOULEVARD, $26,387.60. The following resolution, which was introduced and read at the regular meeting of May 5, 2020 and held over until the regular meeting of May 12, 2020, was called up by the Presiding Officer.

RESOLUTION: 21-333-2020

Sponsored by: Councilmember Gregory and Mayor Stimpson

WHEREAS, the City Council of the City of Mobile, Alabama, finds that the subject this resolution is either necessary to respond to COVID 19, or necessary to perform essential minimum functions of the Council.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA, that the Mayor and the City Clerk be, and they hereby are, authorized and directed to execute and attest, respectively, for and on behalf of the City of Mobile, a contract, by and between the City of Mobile, and the company listed below; for work as outlined in the contract attached hereto and made a part hereof as set forth in full, subject to the company signing the contract and furnishing the required bonds and insurance. A copy of said executed contract will be on file in the office of the City Clerk.

Name of company: McCrory Williams, Inc.

COM project name: TAPMB-TA17(950) Construction Engineering and Inspections Services (Old Shell Rd sidewalks from Parkway Dr. W to University Blvd) 2020-2060-04

Capital project no.: G-OLDSH

Contract amount: $26,387.60

The resolution was read by the City Clerk; whereupon Councilmember Williams moved that the resolution be adopted, which was seconded by Councilmember Daves and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves, Rich and Gregory
Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution adopted.

AUTHORIZE CONTRACT WITH MCCRORY & WILLIAMS FOR OLD SHELL SIDEWALKS FROM MYRTLEWOOD DRIVE TO I-65 SERVICE ROAD WEST, $22,984.30. The following resolution, which was introduced and read at the regular meeting of May 5, 2020 and held over until the regular meeting of May 12, 2020, was called up by the Presiding Officer.

RESOLUTION: 21-334-2020

Sponsored by: Councilmember Gregory and Mayor Stimpson

WHEREAS, the City Council of the City of Mobile, Alabama, finds that the subject this resolution is either necessary to respond to COVID 19, or necessary to perform essential minimum functions of the Council.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA, that the Mayor and the City Clerk be, and they hereby are, authorized and directed to execute

and attest, respectively, for and on behalf of the City of Mobile, a contract, by and between the City of Mobile, and the company listed below; for work as outlined in the contract attached hereto and made a part hereof as set forth in full, subject to the company signing the contract and furnishing the required bonds and insurance. A copy of said executed contract will be on file in the office of the City Clerk.

Name of company: McCrory Williams, Inc.

COM project name: TAPMB-TA18(900) Construction Engineering and Inspections Services 2020-2060-03

Capital project no.: G-TAPMYRTL

Contract amount: $22,984.30

The resolution was read by the City Clerk; whereupon Councilmember Williams moved that the resolution be adopted, which was seconded by Councilmember Daves and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves, Rich and Gregory
Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution adopted.

RECOMMEND THE LEASE OF CITY OWNED PROPERTY AT 720 MUSEUM DRIVE.
The following resolution, which was introduced and read at the regular meeting of May 5, 2020 and held over until the regular meeting of May 12, 2020, was called up by the Presiding Officer.

RESOLUTION: 35-336-2020

Sponsored by: Councilmember Gregory and Mayor Stimpson

WHEREAS, the City of Mobile owns 720 Museum Drive (the subject property) alongside McGregor Avenue, and;

WHEREAS, the City is not utilizing 2,953 sf of the subject property and it is well suited for an adjacent property owner's parking use, described in Exhibit A (attached); and

WHEREAS, the City would benefit from a lease of the described property under favorable terms and conditions;

NOW, THEREFORE, the City Council of the City of Mobile hereby RESOLVES:

That it does not object to offering the 2,953 sf of the subject property for lease. In the event that the City receives an offer to lease under favorable terms and conditions, the lease agreement will be presented to the Council for consideration, and the Council may, if it deems appropriate, adopt an ordinance declaring the property not needed for public or municipal purposes and authorizing the execution of the lease agreement.

BE IT FURTHER RESOLVED that the City Council of the City of Mobile, Alabama, finds that this resolution is either necessary to respond to COVID-19 or necessary to perform essential minimum functions of the Council.

The resolution was read by the City Clerk; whereupon Councilmember Williams moved that the resolution be adopted, which was seconded by Councilmember Daves and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves, Rich and Gregory
Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution adopted.

RECOMMEND APPROVAL TO THE ABC BOARD FOR ISSUANCE OF A RETAIL BEER/TABLE WINE (OFF PREMISES ONLY) LICENSE FOR LUCKY 99, 763 SUMMERVILLE STREET. . The following resolution, which was introduced and read at the regular meeting of May 5, 2020 and held over until the regular meeting of May 12, 2020, was called up by the Presiding Officer.

RESOLUTION: 37-337-2020

Sponsored by: Councilmember Richardson

BE IT RESOLVED BY THE CITY COUNCIL OF MOBILE, ALABAMA, that the following application to the Alabama Alcoholic Beverage Control Board of the State of Alabama is hereby recommended for grant of such license by said Board.

Type of application: Retail Beer/Table Wine
Off Premises Only

Submitted by: MCAR LLC

Location: Lucky 99 763 Summerville Street

BE IT FURTHER RESOLVED that the City Council of the City of Mobile, Alabama, finds that this resolution is either necessary to respond to COVID-19 or necessary to perform essential minimum functions of the Council.

The resolution was read by the City Clerk; whereupon Councilmember Williams moved that the resolution be adopted, which was seconded by Councilmember Daves and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves, Rich and Gregory
Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution adopted.

ASSESS COST FOR REMOVAL OF WEEDS, WEED LIEN GROUP #1600. The following resolution, which was introduced and read at the regular meeting of May 5, 2020 and held over until the regular meeting of May 12, 2020, was called up by the Presiding Officer.

RESOLUTION: 58-338-2020

A RESOLUTION ASSESSING THE COST OF REMOVAL OF NOXIOUS OR DANGEROUS WEEDS IN FRONT OF OR ON CERTAIN PARCELS OF LAND IN THE CITY OF MOBILE, ALABAMA.

WHEREAS, an itemized report in writing has been made to the City Council of Mobile, showing the costs of removing noxious or dangerous weeds on or in front of the hereinafter described parcels of land, a copy of such report having first been posted on the Council Chamber door more than three days prior to the meeting at which the report was received, and the City Council having heard the report, together with any objections which may have been raised by any of the property owners liable to be assessed for the work of culling such weeds, and the City Council being of the opinion that such report in all respects be confirmed:

IT IS THEREFORE RESOLVED BY THE CITY COUNCIL OF MOBILE as follows:

Section 1. The amount set opposite each described parcel of real property contained in exhibit "A," a copy of which is on file in the Office of the City Clerk and made a part hereof as though set forth in full and known as Weed Lien Group #1600 shall constitute special

assessments against such respective parcels of land; and each such parcel of land is hereby assessed with the amount set opposite its description; and the assessment hereby, made and confirmed shall constitute a lien on and against each such respective parcel of land for the amount of each respective assessment so made; and the report made to this body of the costs of removing the noxious or dangerous weeds on or in front of the respective parcels of land is hereby in all respects confirmed.

Section 2. It is directed that a copy of this resolution be delivered to the Tax Collector of the City of Mobile, and it shall be his duty to add the amounts of the above respective assessments to the next regular bills for ad valorem taxes levied against the said respective lots and parcels of land for municipal purposes, and such amounts shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and same procedure on foreclosure and sale as in the case of delinquency as provided for ordinary ad valorem taxes.

Section 3. The City Council of the City of Mobile, Alabama, finds that this resolution is either necessary to respond to COVID-19 or necessary to perform essential minimum functions of the Council.

	WEED LIEN					
	1600				Res. No.	
10/8/2019	LOTS TO BE DECLARED				58-915	
11/12/2019	LOTS FOR PUBLIC HEARING				58-1028	
5/4/2020	LOTS TO BE ASSESSED FOR COST				58-	
				Amount	Dis	N/A
No.	Address	SRO No.	CASE #	Assessed		CBO
1	1569 Greenlawn Dr	932221	1590	$ 202.00	4	
2	955 Savannah St	932549	1591	$ 213.00	2	
3	2519 Greenlawn Dr	932225	1592	$ 240.00	4	
4	0 Stone St	940279	1593	$ 524.15	2	
	Parcel No. (29 02 44 0 030 050.001)					
5	4312 Downtowner Loop N	934306	1594	343.79	5	
6	570 Reynolds Ave	937562	1595	$ 219.00	1	
7	2905 Pages Ln	941187	1596	$ 196.00	1	FL
8	616 Euclid Ave	935512	1597	$ 203.00	5	
9	1017 Wellington St (VL)	941180	1598	$ 474.99	1	
10	1416 Chisam Ave F/k/a 1413 Chinquepin St	939955	1599	$ 203.00	2	
11	3710 Bay Front Rd	935413	1600	$ -	3	PNA
12	1401 Center St	939111	1601	$ 50.00	2	CBO
13	614 Cedar Ave	924699	1602	$ -	2	CBD
14	1327 Creekway Dr	941183	1603	$ 261.19	3	
15	1017 Donald St	943296	1604	$ 50.00	1	CBO
16	805 Dr Thomas Ave	944313	1605	$ 50.00	2	CBO
17	0 Peach St F/k/a 1321 Pecan St	944112	1606	$ 203.00	2	
	Parcel No. (29 06 13 0 003 226.XXX)					
18	1800 Dover St	929480	1607	$ 50.00	7	CBO
19	504 Heritage Dr E	940249	1608	$ 50.00	5	CBO
20	2320 Dauphin St	943725	1609	$ 50.00	1	CBO
21	2057 Butler St	942613	1610	$ 50.00	1	CBO
22	2157 Grove Ct	947211	1613	$ -	3	PNA
23	512 Oak Drive Ct	942325	1660	$ 203.00	2	
				$ 3,836.12		

District total for this group		Numbers of lots cut	
1	8	1	3
2	6	2	5
3	3	3	1
4	2	4	2
5	3	5	2
6	0	6	0
7	1	7	0
	23		13

*ADD Added in from other Groups
*CBO Cut By Owner
*N/A Taken out by Inspector
Before Declared

*CBC Cut By Contractor
*UDL Undeveloped Lot
*PNA Placed in Nuisance Abatement
*PF Privacy Fence

4/28/2020

The resolution was read by the City Clerk; whereupon Councilmember Williams moved that the resolution be adopted, which was seconded by Councilmember Daves and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves, Rich and Gregory
Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution adopted.

ADD FIGURES LAWN CARE AND LANDSCAPING TO THE LIST OF PRIVATE CONTRACTORS TO ABATE PROPERTIES DECLARED PUBLIC NUISANCES. The following resolution, which was introduced and read at the regular meeting of May 5, 2020 and held over until the regular meeting of May 12, 2020, was called up by the Presiding Officer.

RESOLUTION: 58-339-2020

Sponsored by: Mayor Stimpson

WHEREAS, the City Council of Mobile, Alabama, on February 28, 1990 adopted Ordinance No. 24-014, entitled "AN ORDINANCE AMENDING ORDINANCE NUMBER 24-074 ADOPTED JULY 5, 1988, PROVIDING THAT CERTAIN WEEDS AND DEBRIS WITHIN THE CITY OF MOBILE CONSTITUTE A PUBLIC NUISANCE; ABATEMENT AND PRIVATIZATION PROCEDURES; ASSESSMENT, COLLECTION AND ENFORCEMENT PROCEDURES; and

WHEREAS, Article III, Section III, of said Ordinance provided that a "rotation list" of private contractors be established to abate properties declared public nuisances; and

WHEREAS, the following company has complied with all requirements of said Ordinance, and all documentation required by said Ordinance is on file in the Lot Cleaning Division of the Municipal Enforcement Department.

WHEREAS, the City Council of the City of Mobile, Alabama, finds that this resolution is either necessary to respond to COVID-19 or necessary to perform essential minimum functions of the Council.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA, THAT Figures Lawn Care and Landscaping be added to the rotation list for utilization by the City of Mobile to abate properties declared as public nuisances.

The resolution was read by the City Clerk; whereupon Councilmember Williams moved that the resolution be adopted, which was seconded by Councilmember Daves and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves, Rich and Gregory
Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution adopted.

DETERMINE AN APPROPRIATION TO THE MOBILE REGIONAL SENIOR COMMUNITY CENTER FOUNDATION, INC. SERVES A PUBLIC PURPOSE AND APPROVE PAYMENT, $1,000.00. The following resolution, which was introduced and read at the regular meeting of May 5, 2020 and held over until the regular meeting of May 12, 2020, was called up by the Presiding Officer.

RESOLUTION: 60-340-2020

Sponsored by: Councilmember Rich

A RESOLUTION TO DETERMINE CERTAIN EXPENDITURES SERVE A PUBLIC PURPOSE AND APPROVE PAYMENT

WHEREAS, Councilmember Rich wishes to appropriate $1,000.00 to Mobile Regional Senior Community Center Foundation, Inc., from her discretionary funds; and WHEREAS, Mobile Regional Senior Community Center Foundation, Inc., is an Alabama nonprofit corporation which provides a service to the community; and

WHEREAS, the Attorney General of the State of Alabama has opined that the granting of public funds to private groups or corporations is proper if the City Council determines that the same serves a public purpose; and

WHEREAS, the Mobile City Council determines that this appropriation to Mobile Regional Senior Community Center Foundation, Inc., will be used to provide a “Blessing Bag” for seniors (washable face mask, tissue paper, breakfast bars, paper towels and cleaning products) to the COVID-19 virus, which will serve a public purpose benefitting the City of Mobile and its citizens.

NOW, THEREFORE, BE IT RESOLVED that the Mobile City Council hereby finds and determines that an appropriation of $1,000.00 to Mobile Regional Senior Community Center Foundation, Inc., for the purposes described hereinabove serves a public purpose and the Council further approves and directs the payment of same, and further authorizes execution of a standard form City of Mobile council discretionary fund performance contract with said entity, group or individual for the amount set forth herein.

The resolution was read by the City Clerk; whereupon Councilmember Williams moved that the resolution be adopted, which was seconded by Councilmember Daves and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves, Rich and Gregory
Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution adopted.

Councilmember Daves moved that items 17-013 through 60-353 be accepted as Essential/Covid-19 items, which move was seconded by Councilmember Williams and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves, Rich and Gregory
Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the items accepted as Essential/Covid-19.

SUSPENSION OF RULES FOR IMMEDIATE CONSIDERATION OF ESSENTIAL/COVID-19 ITEMS BEING INTRODUCED FOR THE FIRST TIME.

Councilmember Williams moved for the suspension of the rules to consider Resolution 60-353, being introduced for the first time, the motion was seconded by Councilmember Rich and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves, Rich and Gregory
Nays: None

The Presiding Officer declared unanimous consent granted for the item.

ESSENTIAL/COVID-19 ITEMS BEING INTRODUCED FOR THE FIRST TIME:

ORDINANCE TO AMEND CHAPTER 17 OF THE CITY CODE TO APPROVE THE NEW FLOOD MAPS AS REQUIRED BY FEMA TO MAINTAIN PARTICIPATION IN THE

NATIONAL FLOOD INSURANCE PROGRAM (NFIP). The following ordinance was held over until the regular meeting of May 19, 2020.

ORDINANCE: 17-013-2020

Sponsored by: Mayor Stimpson

AN ORDINANCE TO AMEND CHAPTER 17, ARTICLE 1, DIVISION 1, STORMWATER MANAGEMENT AND FLOOD CONTROL, OF THE MOBILE CITY CODE

WHEREAS, the City of Mobile participates in the National Flood Insurance Program (NFIP), which is beneficial for its property owners who are thereby eligible to acquire flood insurance for their property; and

WHEREAS, in order to participate in the NFIP, the Federal Emergency Management Agency (FEMA) requires that the City regulate development based on the flood insurance rate map (FIRM) FEMA adopts and periodically updates; and

WHEREAS, FEMA adopted a new FIRM effective June 5, 2020, and, to remain eligible to participate in the NFIP, the City must amend its stormwater ordinance to adopt the new FIRM; and

WHEREAS, the City Council of the City of Mobile desires to amend Chapter 17 of the City Code, Stormwater Management and Flood Control, to adopt the June 5, 2020, FIRM; to reorganize the Chapter by placing the definitions used in its three articles in a single Code section; to repeal Article II; to repeal Article III, Division 1; and, generally, to conform to the format recommended by the State of Alabama Office of Water Resources (OWR) acting on behalf of FEMA; and

WHEREAS, the adoption of this Ordinance is an essential minimum governmental function of the City Council, and the Council desires hereby to amend Chapter 17 of the City Code by readopting it in its entirety.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA as follows:

Chapter 17 - STORMWATER MANAGEMENT AND FLOOD CONTROL

ARTICLE I. - STORMWATER MANAGEMENT AND FLOOD CONTROL

DIVISION 1. - GENERAL

Subpart A. - General Provisions

Sec. 17-1. - Purpose; applicability; manual; jurisdiction; compliance; abrogation; interpretation; severability.

(a) Statement of purpose. It is the purpose of this article to control land disturbance activities and stormwater drainage facilities within the corporate limits of the city in order to promote the public health, safety and general welfare, and to comply with the Federal Clean Water Act, the Alabama Water Pollution Control Act, as amended, Alabama Code (1975), § 22-21-1, et seq., the Alabama Environmental Management Act, as amended, Alabama Code (1975), § 22-22A-1, et seq., and rules and regulations adopted thereunder, the national pollution discharge elimination system (NPDES) program to meet its stormwater discharge permit requirements, and Federal Emergency Management Agency (FEMA) requirements to reduce flooding through provisions designed to:

(1) Protect human life and health;

(2) Protect the natural assets and resources of the city;

(3) Protect the lands and waters of the city from the effects of soil erosion, sedimentation, and illicit discharges into its municipal separate storm sewer system;

(4) Prevent and reduce degradation of streams and lakes from the effects of siltation and illicit discharges;

(5) Prevent obstruction of drainage channels, reduce flood damage and prevent damage to the property of adjacent landowners;

(6) Enforce the city's stormwater management program;

(7) Reduce the need for rescue and relief efforts associated with flooding;

(8) Provide for the sound use and development of flood-prone areas so as to maximize beneficial use without increasing flood hazard potential;

(9) Reduce damage to public facilities and utilities such as water and sewer lines, electric, telephone and gas facilities, and streets and bridges located in floodplains;

(10) Ensure a functional stormwater drainage system that will not result in excessive maintenance costs;

(11) Encourage the improvement of existing flooding problems in conjunction with new development that enhances and does not impair the city's stormwater drainage system;

(12) Encourage the use of natural and aesthetically pleasing design;

(13) Reduce the impact on public and private lands caused by the accumulation of mud, dirt, water, debris and construction materials.

(b) Applicability. This article shall apply to all areas within the city limits.

(c) Stormwater design manual. The city may furnish additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements of this division and may provide such information in the city floodplain management plan, which is available for review and copying at the office of the city clerk and on the city website, or in the form of a stormwater design manual.

This manual will include a list of acceptable stormwater treatment practices, including the specific design criteria and operation and maintenance requirements for each stormwater practice. The manual may be updated and expanded from time to time, at the discretion of the city engineer, based on improvements in engineering, science, monitoring and experience. Stormwater treatment practices that are designed and constructed in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards.

(d) Jurisdiction. The regulations and requirements set forth in this article shall apply to all property within the corporate limits of the city.
(e) Compliance. No structure or land shall hereafter be located, extended, converted or altered without full compliance with the terms of this article and other applicable regulations.

(f) Abrogation and greater restrictions. This article is not intended to repeal, abrogate or impair any existing ordinance, easements, covenants, or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(g) Interpretation. In their interpretation and application of this chapter, all provisions shall be: (1) considered as minimum requirements, (2) liberally construed in favor of the governing body, and (3) deemed neither to limit nor repeal any other powers granted by state statutes or city ordinances.

(h) Statutory Authorization. The Legislature of the State of Alabama, in the Code of Alabama, 1975, authorized local government units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.

Sec. 17-2. - Definitions.

Words used in this chapter shall have their customary meanings as determined by the standard dictionary definition except for the purposes of this chapter, the following specific words and terms used herein shall be interpreted as follows:

A Zone means the Area of Special Flood Hazard without base flood elevations determined.

Accessory Structure (also referred to as appurtenant structures) means a structure which is located on the same parcel of property as a principal structure to be insured and the use of which is incidental to the use of the principal structure. They should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. These structures are used solely for parking (two-car detached garages or smaller) or limited storage (small, low cost storage sheds). They are included under the general definition of structure and are consequently subject to all floodplain management regulations pertaining to structures.

Addition (to an existing building) means any improvement that increases the square footage of a structure. These include lateral additions added to the front, side, or rear of a structure, vertical additions added on top of a structure, and enclosures added underneath a structure. NFIP regulations for new construction apply to any addition that is considered a perimeter expansion or enclosure beneath a structure. If it is considered to be a substantial improvement (more than 50% of market value) to a structure, the existing structure will also need to be treated as new construction.

Depending on the flood zone and details of the project, the existing building may not have to be elevated. The determining factors are the common wall and what improvements are made to the existing structure. If the common wall is demolished as part of the project, then the entire structure must be elevated. If only a doorway is knocked through it and only minimal finishing is done, then only the addition has to be elevated.

Accelerated erosion means erosion caused by development activities that exceeds the natural processes by which the surface of the land is worn away by the action of water, wind, or chemical action.

ADEM means the Alabama Department of Environmental Management or its successor agency.

Adverse impact means a negative effect to land, water and associated resources resulting from any land-disturbing activity. Negative effects include, but are not limited to, increased risk of flooding, degradation of water quality, increased sedimentation, reduced groundwater recharge, harm to aquatic organisms, wildlife or other resources and/or threatened public health.

AE Zone means the Area of Special Flood Hazard with base flood elevations determined.

Agricultural land means any real property classified or assessed as agricultural or forest land for property tax purposes.

AH Zone means an area of one percent chance of shallow flooding where depths are between one to three feet (usually shallow ponding), with base flood elevations shown.

AO Zone means an area of one percent chance of shallow flooding where depths are between one to three feet (usually sheet flow on sloping terrain), with depth numbers shown.

Appeal means a request for a review of the city engineer interpretation of any provision of this chapter.

Applicant means a property owner or agent of a property owner who has filed an application for a stormwater management or other permit required by chapter 17.

Approved drainage system means a system that was approved for construction and permitted by the city; provided, however, the term does not include stormwater piping within the city's right-of-way.

Area of shallow flooding means a designated AO or AH zone on the city's flood insurance rate map (FIRM) with base flood depths from one (1) to three (3) feet and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate and where velocity flow may be evident.

Area of special flood hazard (also see “Special flood hazard area”) means the land in the floodplain within the city subject to a one (1) percent or greater chance of flooding in any given year. In the absence of official designation by the Federal Emergency Management Agency, Areas of Special Flood Hazard shall be those designated by the city and referenced in Section 17-22.

As-built plans or record documents means a set of engineering site drawings that delineate a specific permitted stormwater management facility or system as actually constructed.

Base flood means the flood having a one (1) percent chance of being equaled or exceeded in any given year (also referred to as the “one percent chance flood”).

Base flood elevation (BFE) means the computed elevation to which floodwater is anticipated to rise during the base flood. It is also the elevation of surface water resulting from a flood that has a one (1) percent chance of equaling or exceeding that level in any given year. Base Flood Elevations are shown in the FIS and on the Flood Insurance Rate Map (FIRM) for zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30 and VE.

Basement means that portion of a building having its floor subgrade (below ground level) on all sides.

Best management practices (BMPs) means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention, educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly into stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control facility site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage and construction sites, or such other practices approved by EPA, see National Menu of Best Management Practices.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system. This is associated with VE Zone (coastal) and Coastal AE Zones construction.

Building (also see Structure) means (1) A structure with 2 or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; or (2) a manufactured home (a “manufactured home,” also known as a mobile home, is a structure built on a permanent chassis, transported to its site in 1 or more sections, and affixed to a permanent foundation); or (3) a travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the city’s floodplain management and building ordinances or laws.

Building permit means an official document or certificate issued by the city permitting department that authorizes performance of a specific activity relating to constructing,

reconstructing, enlarging, extending, or structurally altering any building or structure, including interior alterations.

Certificate of occupancy means an official document, issued by the city permitting department that certifies completion of a permitted structure in accordance with the provisions of established codes and other laws.

Channel means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

City means the City of Mobile, Alabama.

City council means the city council of the City of Mobile, Alabama.

City engineer means the director of stormwater and floodplain management, and city engineering, or his designee.

Clean Water Act means the federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and any subsequent amendments thereto.

Clearing means those operations where trees and vegetation are removed (cut) and stumps left in place, but not including grading or any other activity that would alter the existing elevation contours of the cleared property.

Coastal AE Zone means the portion of the Special Flood Hazard Area (SFHA) to be landward of a Velocity (VE) Zone or landward of an open coast or back-bay area without mapped V-Zones, in which the principal sources of flooding are astronomical tides, storm surges, seiches or tsunamis; not riverine sources. Coastal AE Zones may be subject to wave effects, velocity flows, erosion, scour or combinations of these forces. All community-identified or designated portions of the Special Flood Hazard Area (SFHA) between the landward limit of moderate wave action (the LiMWA or 1.5-foot breaking wave) and the landward limit of the V Zone boundary shall be regulated as VE Zones. Where no VE Zone is mapped in back-bay areas, the Coastal AE Zone is the portion between the high tide line and the landward limit of the 1.5-foot breaking wave.

Coastal Barrier Resources Act means the Coastal Barrier Resources Act of 1982 which prohibits the use of federal development assistance, including federal flood insurance, on property included in the System. While the act does not prevent property in coastal barriers from being developed, it helps to slow or discourage development by prohibiting the use of federal funds, including insurance and loans, from being used to build new property or replace or repair damaged property.

Coastal high hazard area means the area of special flood hazard, extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the flood insurance rate map (FIRM) as zone V1-30, VE or V.

Commercial property means any real property that is not residential property, as defined in this section, or has not specifically been exempted from the fee provisions set out in section 17-44 herein.

Commercial space means the area of a parcel of commercial property measured in square feet, according to the property tax assessment records of the county revenue commissioner.

Construction best management practice plan ("CBMP plan") means a set of drawings and/or other documents submitted by a person as a prerequisite to obtaining a land disturbance permit, which contains all of the information and specifications pertaining to BMP.

Consultant means a licensed or registered professional who provides technical services.

Contractor means a person or his designee who is responsible for construction activities.

Dedication means the deliberate appropriation of property by its owner for general public use.
Detention means the temporary storage of storm runoff in a stormwater management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

Detention facility means a detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

Developer means a person who undertakes land disturbance activities or undertakes other development.

Development means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations and storage of equipment or materials.

Director of the permitting department means the director of the city department responsible for administration of building, zoning, subdivision regulations, forestry and other land use codes of the city or his/her designee.

Drainage area means that area contributing runoff to a single point.

Dry Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate flood damages to real estate or improved real estate property, water, and sanitary facilities, structures, and their contents. Dry floodproofing of a pre-FIRM residential structure that has not been substantially damaged or improved is allowed. Dry floodproofing of a post-FIRM residential building is not allowed. Non-residential structures may be dry floodproofed in all flood zones with the exception of the Coastal High Hazard Area or the Coastal AE Zone.

Dwelling, one-family means a non-commercial, individual and separately built structure designed and constructed exclusively for use by one (1) family for residential purposes.

Easement means an interest in land granted by the owner or his predecessor for a specific limited use, purpose or purposes, (which is described in the conveyance of the land affected by such easement), but not conveying title to real property.

Elevated building means a non-basement building which has its lowest elevated floor above ground level by foundation walls, pilings, columns, piers, or shear walls.

Elevation certificate means a FEMA form used as a certified statement that verifies a building’s elevation information.

Encroachment means the advance or infringement of uses, plant growth, fill, excavation, buildings, structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Engineer means a person licensed under Alabama Code, Section 34-11-1 et seq. (1975), as amended.

EPA means the United States Environmental Protection Agency.

Erosion means the wearing away of land surface by the action of wind, water, gravity, ice, or any combination of those forces.

Erosion and sediment control means the control of solid material, both mineral and organic, during a land-disturbing activity to prevent its transport out of the disturbed area by means of air, water, ice, gravity or mechanical means (see best management practices, "BMPs”).

Existing construction means any structure for which the "start of construction" commenced before May 1, 1972, for before January 1, 1975 for FIRMs effective before that date. Existing construction may also be referred to as existing structures.

Fee in lieu means a payment of money in place of meeting all or part of the stormwater performance standards required by this division.
FEMA means the Federal Emergency Management Agency, or its successor agency.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters; or

(2) The unusual and rapid accumulation or runoff of surface waters from any source;

(3) Mudslides which are proximately caused by flooding as described in part “(2)” of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current;

(4) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually highwater level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in part “(1)” of this definition.

Flood hazard boundary map (FHBM) means an official map of the city, issued by the Federal Insurance Administration, where boundaries of areas of special flood hazard have been designated as specified in section 17-22.

Flood insurance rate map (FIRM) means an official map of the city, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and/or risk premium zones applicable to the city.

Flood insurance study/Flood elevation study (FIS) means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide and/or flood-related erosion hazards

Floodplain means any land area susceptible to being inundated by floodwaters from any source.

Floodplain management regulations means this chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

Floodproofing means any combination of structural and nonstructural additions, changes or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities or structures with their contents.

Floodway (regulatory floodway) means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

Floodway fringe means that area of the special flood hazard area on either side of the regulatory floodway.

Functionally dependent facility means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facility that are necessary for the loading and unloading of cargo or passengers, and shipbuilding or ship repair facilities. The term does not include long-term storage or related manufacturing facilities.

Grading means excavating, filling (including hydraulic fill) or stockpiling of earth material, (or any combination thereof), including the land in its excavated or filled condition.

Greenfield means any real property not previously developed including unimproved commercial lots.

Grubbing means the effective removal of understory vegetation such as, but not limited to, palmetto from the site and/or the removal of stumps and roots from a cleared parcel of land.

Hardship (as related to variances of this chapter) means the exceptional difficulty that would result from a failure to grant the requested variance. The City requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

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

High-risk facility means municipal landfills; other treatment, storage or disposal facilities for municipal waste; hazardous waste treatment, storage, disposal and recover facilities; facilities subject to Emergency Planning and Community Right-to-know Act (EPCRA), title III, section 313, and any other industrial or commercial facility that the city engineer determines may make or has made a substantial pollutant contribution to the MS4.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.
Historic structure means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the department of interior) or preliminary determined by the secretary of the interior as meeting the requirements for individual listing on the National Register; or

(2) Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district; or

(3) Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the secretary of the interior; or (4) individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

a. By an approved state program as determined by the secretary of the interior, or

b. Directly by the secretary of the interior in states without approved programs.

Illicit connections mean an illicit connection is defined as either of the following:

Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-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

Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Illicit or illegal discharge means any discharge to a municipal separate storm sewer that is not composed entirely of stormwater except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from firefighting activities.

Impervious cover means those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

Industrial stormwater permit means a National Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

Infiltration means the passage or movement of water through the soil profile.

Infiltration facility means any structure or device designed to infiltrate retained water to the subsurface. These facilities may be above grade or below grade.

Jurisdictional wetland means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

Land disturbance permit, tier 1, means an official document issued by the permitting department which authorizes a land-disturbing activity on a qualified construction site.

Land disturbance permit, tier 2, means an official document issued by the permitting department which authorizes a land-disturbing activity site of less than one (1) acre, under subpart B of this chapter.

Land disturbance permit application means a set of drawings, documents and supporting calculations containing the information and specifications required by the city submitted as a prerequisite to obtaining a tier 1 or tier 2 land disturbance permit to undertake a land-disturbing activity.

Land-disturbing activity means any activity upon or use of land involving a change in the natural vegetative cover or topography including but not limited to clearing, grading, grubbing, excavation, and filling, or other construction activities that may cause erosion or contribute to sedimentation or alteration of the quality and quantity of stormwater runoff.

Letter of Map Change (LOMC) is an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMC’s are broken down into the following categories:

Letter of Map Amendment (LOMA) is an amendment based on technical data showing that a property was incorrectly included in a designated SFHA, was not elevated by fill (only by a natural grade elevation), and will not be inundated by the one percent chance flood. A LOMA amends the current effective FIRM and establishes that a specific property is not located in a SFHA.

Letter of Map Revision (LOMR) is a revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination concerning whether a structure or parcel has been elevated by fill above the BFE and is, therefore, excluded from the SFHA.

Conditional Letter of Map Revision (CLOMR) is a formal review and comment by FEMA as to whether a proposed project complies with the minimum NFIP floodplain management criteria. A CLOMR does not revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.
Lowest adjacent grade (LAG) means the point of the ground level immediately next to a building. This may be the sidewalk, patio, deck support, or basement entryway immediately next to the structure after the completion of construction. It does not include earth that is placed for aesthetic or landscape reasons around a foundation wall. It does include natural ground or properly compacted fill that comprises a component of a building's foundation system.

Limit of Moderate Wave Action (LMWA) means the limit of the AE Zone category area exposed to wave attack from waves greater than 1.5 feet during the base (one percent chance) flood on open coastal and inland areas exposed to erosion and wave propagation.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other provisions of division 2 of this chapter.

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

Manufactured home means a building, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers and similar transportable structures placed on a site for one hundred eighty (180) consecutive days or longer and intended to be improved property.

Manufactured home park or subdivision, existing means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or before December 31, 1974 or before the effective date of the community's initial flood insurance rate map (FIRM), whichever is later.

Manufactured home park or subdivision, expansion to existing means the preparation of additional sites by the construction of facilities for servicing the lots on which manufactured homes are to be affixed including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

Manufactured home park or subdivision, new means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed after December 31, 1974, or on or after the effective date of the community's initial flood insurance rate map (FIRM), whichever is later.

Manufactured home parks or subdivisions, substantially improved existing, is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty (50) percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Market value means the property value (as agreed between a willing buyer and seller), excluding the value of land as established by what the local real estate market will bear. Market value can be established by independent certified appraisal; replacement cost depreciated by age of building (Actual Cash Value); or adjusted assessed values.

Mean sea level means the average height of the sea for all stages of the tide. It is used as a reference for establishing the base flood elevations shown on the city's Flood Insurance Rate Map (FIRM). For purposes of this chapter, the term is synonymous with national geodetic vertical datum (NGVD) of 1929, North American Vertical Datum (NAVD) 1988 or other datum.

Municipal offense ticket means a summons charging a violation of this chapter that directs anyone in violation to pay a set fine or to appear in municipal court to answer the charge or charges of violation.

Municipal separate storm sewer system (MS4) means a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains:

(1) Owned or operated by the city;

(2) Designed or used for collecting or conveying stormwater;

(3) Which is not a combined sewer; and

(4) Which is not part of a publicly owned treatment works as defined in 40 CFR § 122.2.

National Flood Insurance Program (NFIP) means the federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

National Geodetic Vertical Datum (NGVD) as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

NPDES permit means the permit issued to the city by the state department of environmental management authorizing all existing or new stormwater point source discharges to waters of the state from those portions of the MS4 owned or operated by the city.

National pollutant discharge elimination system (NPDES) means a permit program authorized by the Federal Water Pollution Control Act (Clean Water Act) to authorize point source discharges into waters of the state and administered in the state by the Alabama Department of Environmental Management (ADEM).

New construction means any structure for which the "start of construction" commenced after December 31, 1974. The term also includes any subsequent improvements (including additions) to such structures.

Non-erodible means a material, e.g., natural rock, riprap, concrete, plastic, etc., that will not experience noticeable surface wear due to natural forces of wind, water, ice, gravity or a combination of those forces.

Non-point source pollution means any source of water pollution that is not the "point source" pollution as defined in section 502(14) of the Clean Water Act, and often includes materials contained in stormwater runoff from ill-defined, diffuse sources.

Non-residential means, but is not limited to; small business concerns, churches, schools, farm buildings (including grain bins and silos), pool houses, clubhouses, recreational buildings, mercantile structures, agricultural and industrial structures, warehouses, and hotels and motels with normal room rentals for less than six (6) months duration.

Non-stormwater discharge means any discharge to the storm drain system that is not composed entirely of stormwater.

North American Vertical Datum (NAVD) of 1988 means a vertical control, corrected in 1988, used as a reference for establishing varying elevations within the floodplain.

Obstruction means, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channel construction, bridge, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

Offset fee means a monetary compensation paid to a local government for failure to meet pollutant load reduction targets.

Off-site facility means a stormwater management measure located outside the subject property boundary described in the permit application for land-development activity.

On-site facility means a stormwater management measure located within the subject property boundary described in the permit application for land-development activity.

One Percent Flood means a storm that has a one (1) percent chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A or V is subject to inundation by the one percent chance flood.

Overbank storage means the capacity of floodplain lands to receive, slow and retain above normal rainfall waters from an overloaded river, creek, stream or ditch.

Overstory means the top portion or canopy of trees above a cluster of smaller trees.

Owner means the legal or beneficial owner of land, including those holding the right to purchase or lease the land. Owner also means the person or persons to whom the county revenue commissioner assesses real property in the corporate limits of the city.

Permittee means a person to whom a building permit, land disturbance permit or other type permit has been issued and who is obligated to comply with the terms and conditions of the permit.

Person means any individual, firm, partnership, corporation, company, LLC, association, trust, organization or any other group or combination of individuals operating as a unit and including any trustee, receiver, assignee or other similar representative thereof, as well as a natural person.

Point source means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

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

Post-development means the conditions which exist following completion of a land-disturbing activity in terms of topography, vegetation, land use, construction, and the rate, volume, velocity, quality or direction of stormwater runoff.

Post-FIRM Construction means new construction and substantial improvements for which start of construction occurred after December 31, 1974, or on or after the effective date of the initial FIRM of the community, whichever is later.

Pre-development means the conditions which exist prior to the initiation of a land-disturbing activity in terms of topography, vegetation, land use, construction, and the rate, volume, velocity, quality or direction of stormwater runoff.

Pre-FIRM Construction means new construction and substantial improvements for which start of construction occurred on or before December 31, 1974, or before the effective date of the initial FIRM of the community, whichever is later.

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

Primary frontal dune means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

Public safety and nuisance means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Qualified construction site means any construction activity that results in a total land disturbance of one (1) or more acres and activities that disturb less than one (1) acre but are part of a larger common plan of development or sale that would disturb one (1) or more acres. Qualifying construction sites do not include land disturbance conducted by entities under the jurisdiction and supervision of the Alabama Public Service Commission.

Qualified credentialed inspector (QCI) means an operator, operator employee, or operator-designated qualified person who has successfully completed initial training and annual refresher qualified credentialed inspection program (QCIP) training, and holds a valid certification from an ADEM approved cooperating training entity.

Qualified credentialed professional means a certified professional in erosion and sediment control (CPESC) as determined by the Soil and Water Consideration Society (SWCS) or the International Erosion Control Association (IECA). Other registered or certified professionals; such as registered professional engineer, registered landscape architect, registered land surveyor, registered architect, registered geologist, registered forester, registered environmental manager as determined by the National Registry of Environmental Professionals (NREP), Certified Professional Soil Scientist (CPSS) as determined by the American Registry of Certified Professionals in Agronomy, Crops and Soils (ARCPACS), who can document the necessary education, training, and professional certification, registration, or credentials acceptable to the city official and can demonstrate proven experience in the field of erosion and sediment control shall be considered a qualified credentialed professional. The qualified credentialed professional be in good standing with the authority granting the registration. The qualified credentialed professional must be familiar, and have expertise, with current industry standards for erosion and sediment controls, and must be able to inspect and assure that nonstructural BMPs or other pollution control devices (silt fences, erosion control fabric, rock check devices, etc.) and erosion control efforts, such as grading, mulching, seeding and growth management, or management strategies, have been properly implemented and regularly maintained according to good engineering practices and the requirements of this grading permit. A professional engineer (PE) registered in the state must certify the design and construction of structural practices such as spill prevention control and counter measures (SPCC) plan containment structures, dam construction, etc.

Recharge means the replenishment of underground water reserves.

Recreational vehicle means a vehicle which is;

(1) Licensed and titled as a recreational vehicle or park model;

(2) Built on a single chassis;

(3) 400 square feet or less when measured at the largest horizontal projection;

(4) Has no attached deck, porch, or shed;

(5) Has quick-disconnect sewage, water, and electrical connectors;

(6) Designed to be self-propelled or permanently towable by a light duty truck; and

(7) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Regulatory floodway see Floodway.

Redevelopment means a land disturbance activity that in some way changes or alters the current development or use of the land and may or may not alter the current runoff characteristics.

Remedy a violation means to bring the structure or other development into compliance with State or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the chapter or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

Repetitive loss means flood-related damages sustained by a structure on two (2) separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty-five (25) percent of the market value of the structure before the damages occurred.

Residential property means any single family owner occupied residential property, historic buildings, or sites classified or assessed as class III property, pursuant to § 217 of Article XI of the Constitution of Alabama of 1901.

Retention structure means a permanent enclosure, lake, pond or other system with the primary purpose of permanently storing a given volume of stormwater runoff, and which may temporarily detain an additional volume of stormwater runoff for release at a controlled rate.

Sand dunes means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Section 1316 means a section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance policy or federal insurance policy or federal disaster assistance shall be provided for any property which the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body, to be in violation of state or local laws, regulations or ordinances which are intended to discourage or otherwise restrict land development or occupancy in flood prone areas. If structure is made compliant with this chapter, then the Section 1316 declaration can be rescinded by the city and flood insurance and disaster assistance eligibility restored.

Sediment means solid particulate matter, both mineral and organic, that has been or is being transported by water, wind, ice, gravity, or mechanical means from its site of origin.

Special flood hazard area (SFHA) means that portion of the floodplain subject to inundation by the base flood and/or flood-related erosion hazards as shown on a FHBM or FIRM as Zones A, AE, AH, AO, AR, AR/AE, AR/AO, AR/AH, AR/A, A99, or VE.

Stabilization means the installation of structural measures or soil cover to reduce soil erosion by stormwater runoff, wind, ice, gravity, or mechanical means.

Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction or improvement was within one hundred eighty (180) days of the permit date. The actual start means the first placement of permanent construction of the structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of buildings appurtenant to the permitted structure, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. (NOTE: Accessory structures are NOT exempt from any ordinance requirements.)

State means State of Alabama.

Stop-work order means a directive issued by the city to any person who owns or possesses the land or who is performing or may be responsible for a land-disturbing activity to cease and desist all or any portion of the activity.

Storm drainage facility means any sewer, ditch, creek, river, lake, swale, watercourse or any other natural or manmade facility through which stormwater or storm runoff may regularly or intermittently pass in a concentrated fashion.

Stormwater detention means stormwater runoff collected, temporarily stored and released at a rate less than the inflow rate.

Stormwater management means, for:

(1) Quantitative control, a system of vegetative or structural measures, or both, that controls the increases in volume and rate of stormwater runoff caused by manmade changes to the land, and

(2) Qualitative control, a system of vegetative, structural or other measures that reduces or eliminates pollutants that might otherwise be carried by stormwater runoff.

Stormwater management program means the city program developed in compliance with its National Pollutant Discharge Elimination System ("NPDES") permit to implement controls necessary to reduce the discharge of pollutants from its MS4 to the maximum extent practicable.

Stormwater pollution prevention plan means 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.

Stormwater retrofit means a stormwater management practice designed for an existing development site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.

Stormwater runoff means the direct response of a watershed to precipitation and includes the surface and subsurface runoff that enters a ditch, stream, storm sewer or other concentrated flow during and following the precipitation.

Stormwater treatment practices (STPs) means measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

Structure means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to it before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "repetitive loss" or "substantial damage," regardless of the actual repair work performed. The market value of the building should be:

(1) The appraised value of the structure prior to the start of the initial repair or improvement, or

(2) In the case of damage, the value of the structure prior to the damage occurring.

This term includes structures which have incurred "substantial damage," regardless of the actual amount of repair work performed. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include:

(1) Any project for improvement of a building required to comply with existing health, sanitary or safety code specifications which have been identified by the code enforcement official and which are solely necessary to assure safe living conditions; (provided that said code deficiencies were not caused by neglect or lack of maintenance on the part of the current or previous owners) or

(2) Any alteration of a "historic structure," provided that the alternation will not preclude the structure's continued designation as a "historic structure."

Subdivision means the division of a lot, tract or parcel of land into two (2) or more lots, plats, sites or other divisions of land for the purpose, whether immediate or future, of sale or of building development. This definition includes a resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territories subdivided.

Ten-year frequency storm means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in ten (10) years. It may also be expressed as a probability of a ten (10) percent chance of being equaled or exceeded in any given year.

Twenty-five-year frequency storm means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in 25 years. It also may be expressed as a probability of a four (4) percent chance of being equaled or exceeded in any given year.

Two-year frequency storm means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in two (2) years, or that has a 50 percent chance of being equaled or exceeded in any given year.

Understory means the trees which grow beneath the overstory to include dogwood, crepe myrtles, Bradford pears, red buds and others approved by the urban forester.

Unsuitable material means trash, debris, car bodies, asphalt or other refuse.

VE Zone see Coastal High Hazard Area.

Variance means a grant of relief from the requirements of Division 2 of this chapter which permits construction in a manner otherwise prohibited by this chapter.

Violation means the failure of a structure or other development to be fully compliant with the flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in section 17-26(5), section 17-27(4) and (12), section 17-28(3), and section 17-29(2), (4), or (5) is presumed to be in violation until such time as that documentation is provided.

Waters of the state shall have the same meaning set out in 40 C.F.R. Section 122.2.

Water quality means those characteristics of stormwater runoff that relate to the physical, chemical, biological, or radiological integrity of water.

Water quality volume (WQ v) means the storage needed to capture and treat ninety (90) percent of the average annual stormwater runoff volume. Numerically (WQ v) will vary as a function of long term rainfall statistical data.

Water quantity means the volume and velocity characteristics of stormwater runoff from a land-disturbing activity to downstream areas.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988,(or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

Watercourse means any flowing body of water including a river, creek, stream, or a branch.

Watershed means the drainage area contributing stormwater runoff to a single point.

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

Wet floodproofing means a method of construction which allows water to enter a structure in such a way that will minimize damage to the structure and its contents. Wet floodproofing is appropriate for functionally dependent use and uses that facilitate open space use by variance only, structures utilized for parking or limited storage, or when all other techniques are not technically feasible. Wet floodproofing shall not be utilized as a method to satisfy the requirements of this chapter for bringing substantially damaged or improved structures into compliance. Wet floodproofing is not allowed in lieu of complying with the lowest floor elevation requirements for new residential buildings.

X Zones (shaded) are areas of 0.2 percent chance flood that are outside of the SFHA subject to the one percent chance flood with average depths of less than one foot, or with contributing drainage area less than one square mile and areas protected by certified levees from the base flood.

X Zones (unshaded) are areas determined to be outside the 0.2 percent chance floodplain.

Zone means a geographical area shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

Zoning ordinance shall mean the zoning ordinance of the city.

Sec. 17-3. - Designation of administrator.

The city engineer is hereby appointed to administer and implement the provisions of this chapter in coordination with the permitting department who will administer and enforce any portion of this chapter as it applies to building permitting and land use.

Sec. 17-4. - Duties and responsibilities of the city engineer.

(a) The city engineer may furnish additional policy, criteria and information for proper implementation of this division through the city floodplain management plan (copy available on city website) or a stormwater design manual (see subsection 17-1(c)), which may be amended from time to time as needed.

(b) The city engineer may waive the requirements of this division under subsection 17-9(d), herein, but any such waivers shall not be construed as relieving the party responsible for the identified activity from making on-site drainage improvements required under this chapter for stormwater management.

(c) The city engineer is authorized to administer this chapter, including, but not limited to the following:

1. Review copies of all necessary permits from governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. Maintain such permits permanently with floodplain development permit file. The responsibility for acquiring all permits remains with the owner/developer.

2. When base flood elevation data or floodway data have not been provided in accordance with section 17-22, then the city engineer shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer the provisions of sections 17-25 through 17-29.

3. Notify adjacent communities and the Alabama Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA), and the Alabama Department of Economic and Community Affairs/Office of Water Resources/NFIP State Coordinator’s Office.

4. For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA and State to ensure accuracy of community flood maps through the letter of map revision process. Assure flood carrying capacity of any altered or relocated watercourse is maintained.

5. Where interpretation is needed as to the exact location of the boundaries of the Areas of Special Flood Hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the city engineer shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter.

6. Where interpretation is needed as to the exact requirements of flood-proofing, the city engineer shall make the necessary interpretation. Any person contesting the interpretation shall be given reasonable opportunity to appeal the interpretation as provided in this chapter.

Sec. 17-5. - Duties and responsibilities of the permitting department.

The permitting department is authorized to administer this article, including but not limited to the following:

(1) Verify and record the actual elevation in relation to mean sea level or highest adjacent grade of the regulatory floor level, including basement, of all new construction or substantially improved structures in accordance with section 17-6(d) (2).

(2) Verify and record the actual elevation in relation to mean sea level to which any new or substantially improved structures have been flood-proofed, in accordance with section 17-27 and 17-29.

(3) Review all development permits issued under 17-6(d) to assure that the permit requirements of this article have been satisfied.

(4) When flood-proofing is utilized for a structure, the permitting department shall obtain certification of design criteria from a registered professional engineer or architect licensed by the state, in accordance with Division 2, floodplain regulations, of this chapter.

(5) Obtain design certification from a licensed professional engineer or registered architect that any new construction or substantial improvement placed in a coastal high hazard area will meet the criteria in Division 2, floodplain regulations of this chapter.
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(6) All records pertaining to the provisions this chapter shall be maintained in the office of the permitting department and shall be open for public inspection.

(7) The owner/developer is responsible for acquiring all permits.

Subpart B. Permits

Sec. 17-6. - Permits.

(a) (1) Land disturbance permit, tier 1 and tier 2. A permit from the permitting department is required for any land-disturbing activity within the city unless exempted under subsection 17-8(b) herein. Land disturbance permits expire upon completion of the permitted work, or if the work is not started, not later than one (1) year from the date the permit is approved or issued. A permittee may be granted an extension, at no additional cost, by contacting the permitting department in writing prior to the expiration date of the permit. Disturbed property may not remain denuded longer than ten (10) days without establishing vegetation or the application of suitable ground cover for the control of erosion and sedimentation, see landscaping and stabilization requirements herein, subsection 17-9(c). Specific requirements for obtaining a land disturbance permit include:

a. Approval of a full set of construction plans, including site, grading, and drainage plans by the city engineer;

b. Compliance with all regulations (including federal and state) and approval from the city permitting and traffic engineering departments;

c. Documentation that all necessary permits have been received from governmental agencies from which approval is required by law, provided, however, that the responsibility for acquiring all permits remains with the owner/developer;

d. Compliance with the city's floodplain regulations set out in Division 2 of this chapter; and

e. A non-refundable permit review fee, established in accordance with subsection 17-8(c)(1).

(2) Land disturbance permit, tier 1 only

a. A stormwater management plan meeting the requirements of section 17-9;

b. A maintenance easement and covenant, as appropriate, meeting the requirements of subsection 17-10(a) and (b).

(b) Building permit. A permit from the permitting department is required to erect, construct, reconstruct, enlarge, extend or structurally alter any building or structure, including interior alterations, within the city. Specific requirements for obtaining a building permit include:

(1) An approved land disturbance permit authorized by the city's engineering department and permitting department and approval of the city's traffic engineering department unless exempt under subsection 17-8(b).;

(2) A permit application in compliance with all floodplain requirements as set forth in this section and division 2 of this chapter;

(3) Satisfactory evidence that permits have been received from those governmental agencies from which approval is required by federal or state law, provided, however, that the responsibility for acquiring all permits remains with the owner/developer; and

(4) Plans for building structures in compliance with all applicable building codes, policies and regulations of the permitting department.

(c) Clearing and grubbing; timber harvesting.

(1) A land disturbance permit from the permitting department is required for timber harvesting operations that involve construction of access roads, stump/root removal, earthwork or cutting undergrowth.

(2) A timber harvesting permit from the urban forester is required for harvesting operations that involve cutting or harvesting trees without constructing access roads, stump/root removal, earthwork or cutting undergrowth, but a tier 1 land disturbance permit will not be required if the area disturbed is less than one (1) acre. A tier 2 land disturbance permit will be required.

(3) A land disturbance permit from the permitting department is required, without exemption or exception, for clearing and/or grubbing operations in special flood hazard areas.

(4) A land disturbance permit, tier 2, from the permitting department is required for clearing and/or grubbing four thousand (4,000) square feet or more within city limits.

(5) No land disturbance permit, either tier 1 or tier 2, is required for clearing and/or grubbing private residential property associated with construction of a residential structure that disturbs less than four thousand (4,000) square feet, if outside a special flood hazard area.

(6) Other obligations. All clearing and/or grubbing activities, whether required to obtain a land disturbance permit or not, shall:

a. Observe erosion and sedimentation control requirements found in this article;

b. Obtain all other necessary permits, licenses and authority and to pay all fees required by any other city, county, state, or federal rules, laws or regulation, provided, however, that the responsibility for acquiring all permits remains with the owner/developer; or

c. Comply with all requirements to preserve and protect trees.

(d) Floodplain Development Permit.

(1) Establishment of floodplain development permit. Application for a floodplain development permit shall be made to the permitting department as required by the provisions of this chapter PRIOR to the commencement of any development in identified areas of special flood hazard and city-identified flood hazard areas within the city limits.

(2) Application stage

a. Elevation in relation to mean sea level (or highest adjacent grade) of the regulatory lowest floor (including basement), of all proposed structures;

b. Elevation in relation to mean sea level to which any nonresidential structure will be flood-proofed;

c. Design certification from an Alabama licensed professional engineer for certificates required by 17-27(d)(1) or by either a registered architect or licensed professional engineer that the non-residential flood-proofed criteria in section 17-27(d)(2) has been met;

d. Design certification from an Alabama licensed professional engineer or registered architect that any new construction or substantial that any new construction or substantial improvement placed in a will meet the criteria of Section 17-29. Coastal High Hazard Area

(3) Construction stage.

For all new construction and substantial improvements, the permit holder shall provide to the Permitting Department a certification of the regulatory floor elevation or flood-proofing level using appropriate FEMA elevation or flood proofing certificate immediately after the lowest floor or flood proofing is completed, or in instances where the building is subject to the regulations applicable to coastal high hazard areas, after placement of the horizontal structural members of the lowest floor.

Said FEMA elevation certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer licensed by the state, certified by same, and recorded in the land records of the judge of probate, Mobile County.

a. When flood-proofing is utilized for non-residential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.

b. Any work undertaken prior to submission of these certifications shall be at the permit holder's risk.

c. The Permitting Department shall review the above referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit certification or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

d. The Permitting Department may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.

(4) Finished Construction

Upon completion of construction, a FEMA elevation certificate (FEMA Form 81-31), which depicts all finished construction elevations, is required to be submitted to the Permitting Department prior to issuance of a Certificate of Occupancy.

a. If the project includes a floodproofing measure, a FEMA floodproofing certificate is required to be submitted by the permit holder to the Permitting Department.

b. If the structure is located in a, a V-Zone Certificate is required. The applicant shall V-Zone use the City's certificate. The certificate shall provide the following minimum design and construction requirements for the V-Zone:

i. A registered professional engineer or architect shall develop or review the structural design, specifications, and plans for the construction.

ii. A registered professional engineer or architect shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the following criteria:

• The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the Base Flood Elevation (BFE); and

• The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Use ASCE 7-10, Minimum Design Loads for Buildings and Other Structures, for guidance.

iii. The space below the lowest floor must be free of obstructions (e.g., building element, equipment, or other fixed objects that can transfer flood loads to the foundation, or that can cause floodwaters or waves to be deflected into the building), or must be constructed with non-supporting breakaway walls, open lattice, or insect screening.

c. The Permitting Department shall review the certificate(s) data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Occupancy issuance.

d. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Occupancy.

e. Documentation regarding completion and compliance with the requirements stated in the permit application and with 17-6 (d) (2) of this chapter shall be provided to the City Permitting Department at the completion of construction. Failure to provide the required documentation shall be cause to withhold the issuance of a Certificate of Occupancy.

f. All records that pertain to the administration of this chapter shall be maintained and made available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

Sec. 17-7. - Plans for commercial, residential and subdivision construction.

(a) A full set of construction plans, standards, design criteria and other specifications for commercial, residential and subdivision construction, including site grading and drainage plans, hereinafter in this section sometimes referred to as "the plan" or "plans" must be submitted to the city by all applicants for land disturbance and development permits.

(b) Plans shall be accompanied by sufficient engineering calculations for verification of discharge of stormwater runoff and location and methods for erosion and sedimentation control.

(c) Plans and supporting documentation shall be certified by a registered professional engineer licensed by the state that;

(1) The plans provide for proper drainage of the project according to sound engineering principles; and

(2) The post-development runoff rate does not exceed the pre-development runoff rate as established by the city engineer.

(d) All data, engineering computations and plans submitted to the city shall be signed and sealed by a professional engineer licensed by the state.

(e) No construction, whether by private or public action, shall be performed in such a manner as to increase the degree or potential for flooding in its vicinity or in other areas

whether by increasing runoff volume or velocity or by diminishing channel or overbank storage capacity.

(f) The plan shall include provisions for a design that will not cause the pre-development peak runoff rate from a ten-year storm to increase.

(g) The plan shall provide stormwater detention/retention storage and/or channel improvement and/or other adequate measures as required by applicable design criteria adopted by the city and other specifications for the preparation of site grading and drainage plans.

(h) For tier 1 land disturbance, a construction best management plan meeting the requirements of section 17-9 of this division will be required. For tier 2 land disturbance, an erosion control plan will be required. CBMPs shall be followed for all projects.

(i) Plans for development sites of four thousand (4,000) square feet or more shall not allow stormwater which has been diverted from its pre-development natural flow to cross adjoining property lines unless:

(1) a. Stormwaters drain into the city drainage system or a natural stream; and

b. Stormwaters do not cause the pre-development peak runoff rate to increase; and

c. The plan limits discharge to the pre-development flow from a ten-year frequency storm; or

(2) a. A release is obtained from the owner of the adjoining property that releases the city from any claims arising from upstream development, runs with the land, and is recorded in the records of the probate court of the county; and

b. Stormwaters do not cause the pre-development peak runoff rate to increase; and

c. The plan limits discharge to the pre-development flow from a ten-year frequency storm; or

(3) a. The plan design provides for retention for a one hundred-year frequency storm; and

b. The plan limits discharge to the pre-development flow from a two-year frequency storm; and

c. The engineer of record quantifies the pre-development velocity (feet/second) for a two-year frequency storm and certifies that the post-development velocity of stormwater released onto the adjacent property is equal to or less than the pre-development velocity.

(j) For tier 1 and applicable tier 2 land disturbance projects, the operation and maintenance of the stormwater detention/retention facility shall be the responsibility of the owner/developer, its successors and assignees. The engineer of record shall be responsible for instructing the owner/developer, successors and assignees, in the proper operation and maintenance of the facility, see section 17-10 on maintenance and repair of stormwater facilities.

(k) The city assumes no liability for the design, performance and operation of any stormwater detention/retention facilities, but, instead, in its review of plans relies on the professional judgment of the engineer or other licensed professional of record.

(l) Development sites that are less than four thousand (4,000) square feet are exempt from the requirements of subsection (i) above; provided, however, that a development site may not be divided into parts of less than four thousand (4,000) square feet for the purpose of avoiding the requirements of subsection (9).

(m) No plan shall contain a design that allows stormwater to flow across public rights-of-way unless authorized by the city engineer.

(n) All construction plans will be required to comply with FEMA floodplain regulations as specified in division 2 of this chapter.

(o) As-built certification. A State of Alabama licensed professional engineer must certify to the city engineer that all site construction, street construction, drainage facilities, erosion and sedimentation control measures, and their improvements are complete and functioning as required by the appropriate regulations and approved permits and plans.

Sec. 17-8. - Applications for tier 1 and tier 2 land disturbance permits.

(a) General rule. A land disturbance permit is required for all land-disturbing activities, including any land change which may result in soil erosion from water or wind and the movement of sediment to the municipal separate storm sewer system ("MS4"), including, but not limited to, the clearing, dredging, excavating, transporting and filling of land, except as detailed in subsection (b).

(b) When a land disturbance permit is not required. A land disturbance permit shall not be required for the following, provided however, that a right-of-way and other permits may be required:

(1) Agriculture.

(2) Silviculture, except to the extent that a timber harvesting permit is required.

(3) Such minor land-disturbing activities as home gardens, landscaping on individual residential lots (excluding landscaping performed by, or on behalf of, a developer or builder, who builds a house greater than four thousand (4,000) square feet), home repairs, home maintenance work, minor additions to houses, the construction, maintenance or repair of accessory structures and other related activities which result in minor soil erosion. Minor land-disturbing activities include only excavations of less than four thousand (4,000) square feet which are less than two (2) feet in depth, or which does not create a cut slope greater than five (5) feet in height nor steeper than two (2) horizontal to one (1) vertical. Cumulative impervious surfaces greater than four thousand (4,000) square feet (considering development and improvements completed after 1984) require a land disturbance permit, even if the current disturbance is less than four thousand (4,000) square feet. Notwithstanding the foregoing, if warranted by the circumstances, the city engineer may in his sole discretion impose a CBMP plan and require a land disturbance permit even though an excavation is less than four thousand (4,000) square feet.

(4) Minor land-disturbing activities such as individual connections for utility services and sewer services for single- or two-family residences, minor grading for driveways, yard areas and sidewalks, excluding any grading done by, or on behalf of, a developer or builder in connection with the construction of a house. However, right of way and other permits may be required.

(5) The construction, repair or rebuilding of railroad tracks, excluding privately owned rail spurs.

(6) Minor subsurface exploratory excavations under the direction of engineers or geologists licensed in the state.

(7) The opening of individual burial sites in property which has been approved for such use by all necessary governmental authorities.

(8) Installation of water supply wells or environmental ground water monitoring wells.

(9) A fill which is less than one (1) foot in depth and placed on a natural ground surface with a slope flatter than five (5) horizontal to one (1) vertical; or does not exceed fifty (50) cubic yards on any one (1) lot; and is less than three (3) feet in depth; is not intended to support structures; and does not obstruct a drainage course. This exemption does not apply in special flood hazard areas, which require a tier 2 permit.

(10) Emergency utility repairs.

(11)Single family residences separately built where the residence, including driveways and all impervious surface constructed post-1984 on-site, does not increase the impervious surface area more than four thousand (4,000) square feet of land surface area. However, the builder will be required to install silt barriers and use best management practices as necessary to prevent erosion of dirt, rock debris, and building materials onto public or private property and into the city's MS4 and comply with all city ordinances.

The activities referred to in subsections (1) through (11) above may be undertaken without a land disturbance permit; however, the persons conducting such activities must do so in accordance with the provisions of this division and any other applicable law, including the proper control of sedimentation and runoff to the MS4. This division shall apply to any land-disturbing activities that drain to the MS4 if a stormwater pollution problem is shown to be caused by such activity following monitoring procedures and complaints.

(c) Applications for land disturbance permits.

(1) Application submittal. Before the commencement of any land-disturbing activity that is not exempted under section 17-8(b) from obtaining a land disturbance permit, the land owner, operator or agent thereof shall submit to the city a permit application on a form provided for that purpose, accompanied by the plan review fee as set out in paragraph (2) below. A permit application must be accompanied by the following: for tier 1 projects, a construction best management practices plan and acceptable security plan, see section 17-9; for tier 1 and tier 2 projects, a permit application must include the items listed in sections 17-6(a) and 17-7. The applicant must submit the number of sets of plans required by the permitting department, and a copy in PDF format.

(2) Fees. Applications for land disturbance permits shall be accompanied by a plan review fee as follows:

Plan Review Fee:

First: $100.00

Second: $200.00

Third: $500.00

Fourth: $1,000.00

Fifth +: $2,000.00 each

After the application is reviewed and approved, a permit fee is due. The amount of the fee depends on the size of the area to be disturbed at the site. The maximum permit fee is $300.

(3) Application procedure.

a. Following its receipt of an application for a land disturbance permit, the city will use its best efforts to either approve or disapprove the permit within thirty (30) days of the day a complete application and permit application is filed with the city. If the application is disapproved, the city will inform the applicant, in writing, which writing may be communicated electronically through comments and annotations on the application, of the reasons for its disapproval. If the applicant, on one (1) or more occasions, revises the application or submits to the city additional documents or information in connection with the application, the city will make a written response which may be communicated electronically through comments and annotations on the revised or additional application, to the applicant to inform the applicant whether such revised application and/or additional documents and information have been approved or disapproved by the city. The city will use its best efforts to provide its response to revised applications or additional information

within fourteen (14) days of the day such revised application or additional documents or information is submitted to the city. The land-disturbing activity may not be commenced prior to the issuance of the land disturbance permit by the city. The issuance of the land disturbance permit shall not excuse the owner from the need to obtain other required federal, state and local permits or licenses.

b. The minimum standards for the issuance of a land disturbance permit must meet the requirements of this division.

(4) Data required on the application for a land disturbance permit. All applications for a land disturbance permit must include the following information:

a. Name of applicant;

b. Telephone number of applicant, telecopier number, if any, of applicant, and e-mail address, if any, of applicant;

c. Address where applicant, or other person who can furnish information about the land-disturbing activity, ("contact person") can be reached;

d. Name, address, telephone number, telecopier number, if any, and e-mail address, if any, of the owner or the project, the owner of the property on which the project is to be located and the ground lessee of the property, if any, on which the land-disturbing activity is to be conducted if the applicant is not the owner of the project and such property;

e. Legal description and address, if any, of the property upon which the land-disturbing activity is to be conducted;

f. Names, addresses, telephone numbers, telecopier numbers, if any, and e-mail addresses, if any, of all contractors and subcontractors who shall perform the permitted work; provided, however, that if the contractor and the subcontractors have not been selected when the application for a land disturbance permit is filed, the applicant shall furnish such information to the city within five (5) days of the day or days on which the contractor and/or subcontractors are selected;

g. Name, address, telephone number, telecopier number, if any, and e-mail address, if any, of the qualified credentialed professional who has approved the site plans and, if any tier 1 development, a CBMP plan application; and

h. Each application for land disturbance permit must be accompanied by a map or a plan of the land on which the land-disturbing activity will be conducted and any other information that is required under this division.

The detail of the CBMP plan must be commensurate with the size of the project, severity of the site condition and potential for off-site damage, as provided in this division.

(d) Compliance with the requirements of the land disturbance permit. Records of compliance with the provisions of the land disturbance permit shall be submitted to the city for review; provided, that if such records are not maintained within the state and, because of their size, cannot be transmitted to the city, such records must be delivered to the city (at no expense to the city) within fifteen (15) days of the receipt by the owner, applicant or contact person of a request by the city engineer for such records.

(e) Amended application; transfer of land disturbance permit.

(1) Amended land disturbance permit. A land disturbance permit may be amended, upon the payment of an additional fee, as follows:

First amendment: $100.00

Second amendment: $200.00

Third amendment: $500.00

Fourth amendment: $1,000.00

Fifth and each additional amendment: $2,000.00 each

The amended land disturbance permit application shall contain all changes from the original application, and must, at a minimum, show to the reasonable satisfaction of the city that the proposed changes will not affect the quantity and/or quality of stormwater runoff. If an amended or restated application is filed with the city with respect to land-disturbing activities for which a land disturbance permit has been issued, such existing land disturbance permit shall continue in effect, and the holder of the land disturbance permit may continue to operate under the original permit unless and until an amended land disturbance permit is issued in response to the amended or restated application ("amended land disturbance permit") at which time the original land disturbance permit shall expire and all land-disturbing activities must be conducted in accordance with the amended land disturbance permit.

(2) Transferred land disturbance permit. A land disturbance permit may be transferred, upon the payment of an additional fee in the amount of one hundred one dollars ($101.00), equal to the fee under the building code for change of contractor, upon the filing with the city of an application for transfer, provided, that the holder and proposed transferee of the land disturbance permit show to the reasonable satisfaction of the city that, upon or following the transfer, there will be no proposed changes which may affect the quantity or quality of stormwater runoff. If there is a request for the transfer of a land disturbance permit and there are to be one (1) or more changes in the operation of the project which is the source of the land-disturbing activity which may affect the quantity and/or quality of stormwater runoff, the new owner or operator of such project must apply to the city for a new land disturbance permit prior to his involvement with the operation of such project.

(f) Signatory requirements.

(1) All applications and correspondence required by this division to be submitted to the city shall be signed as follows:

a. If an application or correspondence is submitted by a corporation, it must be signed by the president of the corporation or by a vice-president of the corporation who is in charge of a principal business function of the corporation, or any person who performs similar policy-making or decision-making functions for the corporation, or who has been authorized to sign such applications and/or correspondence by a resolution adopted by the board of directors of the corporation. Proof of the authority of the signature shall be provided to the city, upon his request.

b. If an application or correspondence is submitted by a limited liability company, it must be signed by a manager or other person who serves the same or similar function as the president of a corporation.

c. If an application or correspondence is submitted by a partnership, it must be signed by a general partner of the partnership.

d. If an application or correspondence is submitted by a sole proprietorship, it must be signed by the proprietor.

e. If an application or correspondence is submitted by the state or the federal government or by any municipal, state or federal agency, it must be signed by either the chief executive officer or a principal executive officer of any such government or by either the chief executive officer, a principal executive officer, or a senior executive officer having responsibility for the overall operations of a principal geographic unit of any such governmental agency.

(2) Any person signing any application or correspondence required by this division shall make the following certification: "I certify, under penalty of law, that this document and all

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

Sec. 17-9. - Best management practices—Tier 1 land disturbance permit.

(a) Design and performance standards. The following are required for all land-disturbing activities that require a tier 1 land disturbance permit, see section 17-8(b), and will take effect three hundred sixty-five (365) days following the effective date of the city NPDES ALS000007 permit for its MS4. All applications for a land disturbance permit must contain, or be accompanied by, the materials and information necessary to satisfy the requirements of this division and must be accompanied by a construction best management practices (CBMP) plan. The CBMP plan shall be prepared by a qualified credentialed professional and shall include the following:

(1) The CBMP shall be accompanied by an engineering map or plan of the property upon which land-disturbing activities are to be conducted, prepared by a registered engineer or land surveyor, showing the present contour lines of such property, and the present contour lines of at least the nearest twenty-five (25) feet of the properties immediately adjacent to such property and the existing grades and evaluations of all streets which abut such property. Such map or plan shall show all existing drainage facilities and all natural drainage on such property and on such adjacent property.

(2) All proposed contours, the proposed temporary and permanent disposition of surface water and the proposed drainage structures.

(3) The proposed contours in the map or plan shall be depicted in contour intervals of a minimum of one (1) foot. All maps and plans submitted shall be on a standard sized sheet twenty-four (24) inches by thirty-six (36) inches and drawn to a scale of not less than one (1) inch equals one hundred (100) feet. Contour intervals of more than one (1) foot and maps or plans which are smaller than the standard size may be approved by the city engineer, upon written request and for good cause shown. All sheets will be standard paper sizes.

(4) The CBMP plan shall contain a description of the existing site conditions, a description of adjacent topographical features, the information necessary to determine the erosion qualities of the soil on the site, potential problem areas of soil and erosion and sedimentation, soil stabilization specifications, stormwater management considerations, a sequence of construction and projected time schedule for the commencement and completion of the land-disturbing activity, specifications for CBMP plan maintenance during the project and after completion of the project, clearing and grading limits, and all other information needed to depict accurately the solutions to potential soil erosion and sedimentation problems to the MS4. The CBMP plan shall include the series of BMPs and shall be reviewed by, and subject to the approval of, the city engineer prior to the issuance of the tier 1 land disturbance permit. An ADEM notice of registration (NOR) shall be submitted with the application. The notice of intent (NOI) may be provided until the NOR is received from ADEM. Copies of all monitoring data and reports shall be submitted to the city in the same manner as they are submitted to ADEM and in the frequency specified by the city.

(5) Where appropriate, in the opinion of the qualified credentialed professional who prepares the CBMP plan, to the maximum extent practicable, the CBMP plan shall include measures to reduce erosion and other adverse impact to MS4 drainage which would result from an increase in the volume of water and the rate of runoff of water during the conduct of land-disturbing activities.

(6) Whenever the city engineer determines that a CBMP plan does not comply with this division, he shall notify the applicant in writing of the ways in which the CBMP plan does not comply with this division.

(7) To the maximum extent practicable, sediment in runoff water must be minimized by using appropriate BMPs.

(8) Structural controls shall be designed by a registered Alabama professional engineer. Structural controls shall be designed and maintained as required to minimize erosion and pollution to the maximum extent practicable. All surface water flowing toward the construction area shall, to the maximum extent practicable, either be passed through the site in a protected channel or diverted by using berms, channels or sediment traps, as necessary. Erosion and sediment control measures shall be designed, according to the size and slope of the disturbed areas or drainage areas, to minimize erosion and to control sediment, to the maximum extent practicable. Discharges from sediment basins and traps must be conducted in a manner consistent with good engineering practices. Sediment-laden, or otherwise polluted, water discharged to the MS4 must be addressed in a manner consistent with good engineering practices and the requirements of this division.

(9) Control measures shall be maintained as an effective barrier to sedimentation and erosion in accordance with the provisions of this division.

(10)There shall be no distinctly visible floating scum, oil or other matter contained in the stormwater discharge. The stormwater discharge to an MS4 must not cause an unnatural color (except dyes or other substances discharged to an MS4 for the purpose of environmental studies and which do not have harmful effect on the bodies of water within the MS4) or odor in the community waters. The stormwater discharge to the MS4 must result in no materials in concentrations sufficient to be hazardous or otherwise detrimental to humans, livestock, wildlife, plant life or fish and aquatic life in the community waters.

(11)When the land-disturbing activity is finished and stable vegetation or other permanent controls have been established on all remaining exposed soil, the owner of the land where the land-disturbing activity was conducted, or his authorized agent, shall notify the city of these facts, and request a final inspection. The city shall then inspect the site within five (5) working days after receipt of the engineer's as-built certification, see section 17-7(o), and may require additional measures to stabilize the soil and control erosion and sedimentation. If additional measures are required by the city, written notice of such additional measures shall be delivered to the owner, and the owner shall continue to be covered by the land disturbance permit issued with respect to the land-disturbing activity until a final and complete inspection is made to the satisfaction of the city. The owner's professional engineer shall certify to the city that land-disturbing activity is finished and stable, and vegetation or other permanent controls have been established on all remaining exposed soil for the site. Following receipt of an acceptable final engineer's as-built certification of the project and satisfactory inspection, the city will deliver to the owner, within ten (10) days of the date of such certification, a sign-off will be entered in the permitting system showing that the erosion control requirements of the land disturbance permit have been fulfilled. At that time, the site and/or the project constructed thereon may come under the operation of other ordinances of the city.

(12)The CBMP plan must be accompanied by a letter of credit, a surety bond or a cash bond, with the city having the right to determine which type of security shall be furnished. Unless the city determines that sufficient security for compliance with the requirements of this division is already in place, a letter of credit, a surety or a cash bond (a letter of credit, a surety bond and a cash bond shall be herein collectively referred to as "security") shall be furnished to the city in accordance with the following provisions:

a. The city shall require a letter of credit, a surety bond or a cash bond in such amount as specified herein to assure that the work, if not completed or if not in accordance with the permitted plans and specifications will be corrected to eliminate hazardous conditions, erosion and/or drainage problems. In lieu of a letter of credit or a surety bond required by the city, the owner may file a cash bond with the city in an amount equal to that which would be required in the letter of creditor or the surety bond.

b. The security shall contain, or have attached to it as an exhibit, a legal description of the site. The security shall remain in effect for such reasonable period of time as may be required by the city.

c. The security for clearing operations only shall be in the amount of one thousand dollars ($1,000.00) per acre for each acre, or fraction of an acre, disturbed or affected by such operations.

d. The security for earthwork or clearing and earthwork operations shall be in the amount of three thousand dollars ($3,000.00) per acre for each acre, or fraction of an acre, disturbed or affected by such operations.

e. Security equal to double the amounts required in subsections (3) and (4) herein, shall be required where clearing or earthwork is performed in areas designated as flood ways, floodplains or areas susceptible to landslides.

f. Each letter of credit must be issued by a bank which has its principal office in the city.

g. Each letter of credit must be issued by a bank which is reasonably satisfactory to the city and each surety bond must be issued by a surety company which is qualified to do business in the state and which is otherwise reasonably satisfactory to the city.

(b) Notice of construction commencement and construction inspections for tier 1 land disturbance permits.

(1) Notice of construction commencement. The permittee under a tier 1 land disturbance permit must notify the city in advance before the commencement of construction.

(2) Construction inspections. Regular inspections of the stormwater management system construction shall be conducted by a certified professional engineer, or a qualified certified inspector ("QCI") or qualified credentialed professional ("QCP"). All inspections shall be documented and written reports prepared that contain the following information:

a. The date of the inspection;

b. Whether construction complies with the approved CBMP plan;

c. Any deviation from the approved construction specifications; and

d. Any violations of the stormwater and flood control ordinance.

e. Any violations will be processed in accordance with section 17-14 of this division.

(3) Final inspection—Submittal of "as-built" plans. Permittees are required to submit "as-built" plans for any stormwater management practices located on-site after final construction is completed in CAD form. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer. No performance securities will be released before the city engineer or his agent completes a final inspection and approval of the stormwater management facilities.

(c) Land stabilization requirements for tier 1 land disturbance permits.

(1) Any land surface from which the natural vegetative cover has been either partially or wholly cleared or removed by development activities shall be revegetated within ten (10) days from the substantial completion of clearing and construction, see section 17-6(1) of this division. Revegetation must meet the following criteria:

a. All reseeding must use an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety (90) percent of the seeded area. Reseeding can be accomplished with solid sodding (Bermuda).

b. Detention ponds must be solid sodded.

c. When replanting with native woody and herbaceous vegetation, the ground must be covered by straw mulch or its equivalent in an amount of sufficient coverage to control erosion until the plantings are established and capable of controlling erosion.

d. Any area of revegetation must exhibit survival of a minimum of seventy-five (75) percent of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five (75) percent survival for one (1) year is achieved.

(2) A landscaping plan must be submitted with the final design describing the temporary and permanent vegetative stabilization and management techniques to be used at a site for construction. This plan will not only explain how the site will be stabilized after construction, but also identify who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a registered QCP or professional engineer licensed by the state and must be approved prior to receiving a permit reporting compliance with plan.

(d) Waivers of stormwater management requirements.

(1) Every applicant for a tier 1 land disturbance permit shall provide for stormwater management both during construction and post-construction as required by this division, unless a written request is filed to waive this requirement. Requests to waive the stormwater management plan requirements shall be submitted to the city engineer for approval.

(2) The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that at least one (1) of the following conditions applies:

a. It can be determined that the proposed development is not likely to impair attainment of the objectives of this division.

b. Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan approved by the city engineer and implemented pursuant to this division.

c. Provisions are made to manage stormwater through an off-site facility. The off-site facility is required to be in place, to be designated and adequately sized to provide a level of stormwater control that is equal to or greater than that which would be afforded by on-site practices and there is a legally obligated entity responsible for long-term operation and maintenance of the stormwater practice.

d. The city engineer finds that meeting the minimum on-site management requirements is not feasible due to the natural or existing physical characteristics of the site.

e. Non-structural practices will be used on the site that reduce:

1. The generation of stormwater from the site; and

2. The size and cost of stormwater storage; and the pollutants generated at the site.

f. The city will not grant a waiver if to do so would cause any of the following impacts to downstream waterways:

1. Deterioration of existing culverts, bridges, dams, or other structures, or any element of the city's MS4, private water courses, waters of the state or of the United States;

2. Degradation of biological functions or habitat;

3. Accelerated streambank or streambed erosion or siltation;

4. Increased threat of flood damage to public health, life, property.

g. In order to be eligible for a waiver, the applicant must complete a mitigation measure, which may include but is not limited to one (1) of the following:

1. The purchase and donation of privately owned lands, or the grant of an easement to be dedicated for preservation and/or reforestation. These lands should be located adjacent to the stream corridor in order to provide permanent buffer areas to protect water quality and aquatic habitat. The donation shall run with the land, and shall be recorded in the records of the Office of the Probate Court, Mobile County.

2. The creation of a stormwater management facility or other drainage improvements on previously developed properties, public or private, that currently lack stormwater management facilities designed and constructed in accordance with the purposes and standards of this division.

3. Payment of a fee in lieu of stormwater practices may be accepted when implementation of otherwise applicable stormwater practices is impracticable under the provisions of this subsection. The fee will be determined according to a fee schedule established by the city based on the size and type of the development activity.

Sec. 17-10. - Maintenance and repair of stormwater facilities—Post-construction stormwater management in new development and redevelopment.

(a) Maintenance easement—Tier 1 developments. Prior to the issuance of a tier 1 permit, the owner of the site must agree to a maintenance easement that runs with the land and provides the city all authority required to monitor and enforce BMPs. If the land is to be subdivided, the maintenance easement shall be identified on the subdivision plat recorded in the records of the probate judge for the county. The easement shall provide for access to the property at reasonable times for periodic inspection by the city, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this division. Any stormwater easement agreement that does not appear on a subdivision plat shall be recorded in the records of the probate judge for the county.

(b) Maintenance covenants—Tier 1 developments. Maintenance of all stormwater management BMPs shall be ensured through the creation of a formal maintenance covenant that must be approved by the city and recorded in the records of the probate judge for the county, prior to final plan approval. The covenant shall include a schedule for routine maintenance checks, and periodic inspections in a frequency sufficient to assure the proper performance of the BMPs. Maintenance and inspection shall be the responsibility of the property owner.
In the event the stormwater BMPs fail to perform effectively, the parties may amend the maintenance covenants by written amendment recorded in the records of the probate judge for the county.

(c) Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a stormwater management BMPs shall make records of the installation and of all maintenance and repairs and shall retain the records for at least five (5) years. Inspections shall be completed by a QCI or QCP. These records shall be submitted to the city engineer annually on January 1 or such other date designated by the city engineer. In the event the responsible party fails to provide the annual records, city officials may conduct an inspection of the property. The fee for said inspection shall be five hundred dollars ($500.00) or the actual cost of inspection, whichever is greater.

(d) Failure to maintain practices. If a responsible party fails or refuses to meet the requirements of the maintenance covenant, the city, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to restore or repair the BMPs. In the event that the stormwater run-off becomes a

danger to public safety or public health, the city shall notify the party responsible for maintenance of the BMPs in writing. Upon receipt of that notice, the responsible person shall have fifteen (15) days to correct the deficiency in an approved manner depending upon the severity and nature of the violation. After proper notice, the city may assess the owner(s) of the facility for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be collected as a municipal lien in accordance with the procedures applicable to the abatement of public nuisances.

(e) Unauthorized discharge prohibited and declared a public nuisance.

(1) Unauthorized discharges prohibited. Any discharge of stormwater made in violation of this division or of any condition of a tier 1 land disturbance permit issued or maintenance covenant, see section 17-10(b), entered pursuant to this division is prohibited and is hereby declared a public nuisance subject to correction and/or abatement in accordance with applicable law.

(2) Exceptions. Discharges from the following activities will not be considered a source of pollutants to the MS4 and to waters of the United States and waters of the state when properly managed to ensure that no potential pollutants are present:

a. Discharge from emergency fire-fighting activities;

b. Water used to control dust, as long as no runoff is generated;

c. Potable water including uncontaminated water line flushing not associated with hydrostatic testing;

d. Routine external building wash down associated with construction that does not use detergents;

e. Pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spill material has been removed) and where detergents are not used;

f. Uncontaminated air conditioning or compressor condensate associated with temporary office trailers and other similar buildings;

g. Uncontaminated ground water or spring water;

h. Foundation or footing drains where flows are not contaminated with process materials such as solvents.

(4) Except for emergency discharges noted above, allowable discharges shall not allow sediment to wash off-site and into the MS4 and waters of the United States.

(5) The prohibition shall not apply to any stormwater discharge permitted under an NPDES permit, waiver or order issued to the discharger and administered under the authority of the ADEM or EPA, provided that the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations.

(f) Accidental discharges.

a. Release of hazardous materials. In the event of any discharge of a hazardous substance or a significant spill of a hazardous substance to the MS4 which could constitute a threat to human health or the environment, the premises owner or operator of the premises shall immediately notify emergency response agencies of the occurrence via emergency dispatch services (911) and shall also notify the city 311 operator by phone or e-mail as soon as possible but not later than twenty-four (24) hours from the date and time of the release as to the occurrence of and the quantity of the release.

b. Release of non-hazardous materials. In the event of a release of non-hazardous materials to the MS4, said person shall notify the fire department and the city 311 operator

by phone or e-mail as soon as possible but no later than twenty-four (24) hours from the date and time of the release as to the occurrence of and the quantity of the release.

c. The owner or operator of property on which a release identified in paragraph (1) or (2) above occurs, shall take all necessary steps to ensure the discovery, containment and cleanup of such spill so as to minimize any adverse impact to the waters of the state and waters of the United States caused by discharges to the MS4, including such improved or additional monitoring as may be necessary to determine the nature and impact of the discharge. Absent a compelling public interest to the contrary, it shall not be a defense for the owner or operator in an enforcement action that it would have necessary to halt or reduce the business or activity of the site, or any project or facility thereon, to maintain water quality and minimize any adverse impact that the discharge may cause.

Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the city engineer within three (3) business days of date of the phone or in person notice.

d. Failure to provide notification of a release as provided above is a violation of this division.

(g) Immediate threats to public health, welfare or the environment. Notwithstanding any other provision in this division to the contrary, in the event of an immediate threat to the public health or welfare, the city may take all appropriate measures to remove or alleviate such threat.

Sec. 17-11. - Illicit discharge detection and elimination ("IDDE").

(a) Applicability. This section 17-11 applies to all properties (whether developed or undeveloped) that have stormwater discharges associated with them and all land uses within the city, including, but not limited to, residential, industrial, commercial, agricultural, and construction activity.

(b) Regulatory consistency. This division shall be construed to assure consistency with the requirements of the CWA and the AWPCA and acts amendatory thereof or supplementary thereto or any other applicable regulations.

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

(d) Prohibitions of illicit discharges and illicit connections.

(1) Prohibition of illicit discharges.

a. Prohibition. Unless otherwise excepted herein, no person shall spill, dump, throw, drain, make, cause to be made or continue to be made; allow others under such person's control to spill, dump, throw, drain, make, cause to be made or continue to be made; or otherwise discharge and/or dispose of into the city's MS4 or watercourses any illicit discharge, including but not limited to pollutants or waters containing any pollutants, other than stormwater.

b. Exceptions. Discharges from the following activities will not be considered a source of pollutants to the MS4, water of the state or to waters of the United States when properly managed to ensure that no potential pollutants are present, and therefore shall not be considered illicit discharges unless determined to cause a violation of the provision of the AWPCA, CWA or this division:

1. Water line flushing;

2. Landscape irrigation (not consisting of treated, or untreated wastewater unless authorized by ADEM);

3. Diverted stream flows;

4. Uncontaminated ground water infiltration;

5. Uncontaminated pumped ground water;

6. Discharges from potable water sources;

7. Foundation and footing drains;

8. Air conditioning drains;

9. Irrigation water (not consisting of treated, or untreated, wastewater unless authorized by ADEM);

10. Rising ground water;

11. Springs;

12. Water from crawl space pumps;

13. Lawn watering runoff;

14. Individual residential car washing, to include charitable carwashes;

15. Residual street wash water;

16. Discharges or flows from firefighting activities (including fire hydrant flushing);

17. Flows from riparian habitats and wetlands;

18. Dechlorinated swimming pool discharges;

19. Discharges authorized by and in compliance with a separate NPDES permit; and

20. Wash water (without the use of chemicals/soaps/solvents) from the cleaning of the exterior of residential or commercial buildings, including gutters, sidewalks and driveways, provided that the discharge does not pose an environmental or health threat.
Discharges associated with dye testing are also allowable discharges under the terms of this section, but this activity requires written notification to and approval in writing by the city engineer at least fourteen (14) days prior to the date of the test.

c. The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of ADEM, provided that the discharger is in compliance with the requirements of the permit, waiver or order and other applicable laws and regulations.

(2) Prohibition of illicit connections.

a. Prohibition. The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.

b. Past connections prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

c. A person is considered to be in violation of this division if the person connects a line conveying sewage to the MS4 or allows such an illicit connection to continue.

d. Improper connections in violation of this division must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or a sanitary sewer system upon approval of the city.

e. Any drain or conveyance that has not been documented in plans, maps or the equivalent and which may be connected to the MS4 shall be located by the owner or occupant of that premises upon receipt of written notice of violation from the city engineer requiring that such locating be completed. Such notice will specify a reasonable time within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm drainage system, sanitary sewer, or other, and that the outfall location or point of connection to the storm drainage system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided in writing to the city engineer.

(e) Watercourse protection. No person owning a premises or leasing a premises through which a watercourse passes may throw, deposit, leave, maintain, keep or permit to be thrown, deposited, left, maintained or kept in any part of a watercourse any trash, debris, excessive vegetation or other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse. A person shall keep and maintain that part of the watercourse on the premises owned or leased by such person free from any such trash, debris, excessive vegetation and other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse. A person shall only be liable under this division for trash, debris, excessive vegetation and other obstacles that originate from the premises owned or leased by such person. In addition, the owner or lessee of a premises shall maintain existing privately-owned structures within or adjacent to a watercourse on such premises, so that such structures will not become a hazard to the use, function or physical integrity of the watercourse.

Sec. 17-12. - Commercial, industrial and high-risk facilities.

(a) BMPs required. All commercial, industrial and high-risk facilities (see the definition of "high-risk facility" herein), shall identify, implement and maintain BMPs for any activity, operation or facility which may cause or contribute to pollution or contamination of stormwater, the MS4, private watercourse waters of the state or waters of the United States. Noncompliance with such BMPs will constitute a violation of this division.

(b) Protection against accidental discharge. The owner or operator of a commercial, industrial or high-risk facility shall provide, at its own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 or private watercourses, waters of the state, or waters of the United States, through the use of structural and non-structural BMPs. Any person responsible for a commercial, industrial or high-risk facility which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the discharge of pollutants to the MS4.

(c) Industrial, construction or other activity discharges—Compliance with NPDES permits.

(1) Any person subject to an industrial, general or construction activity, or other NPDES permit shall comply with all terms and provisions of such NPDES permit. Any person with an NPDES permit shall, to the extent permissible under state law, provide to the city engineer a copy of the permit, a copy of the stormwater pollution prevention plan and copies of all monitoring data and reports submitted to ADEM as required by the NPDES permit. Copies of monitoring data and reports shall be submitted to the city in the manner specified by the city and in the frequency as is submitted to ADEM.

(2) Proof of compliance with said permit in a form acceptable to the city engineer is required prior to the allowing discharges to the MS4. Compliance with an NPDES permit authorizing the discharge of stormwater associated with industrial activity shall be deemed compliance with the provisions of this division.

(3) Notice of intent (NOI). To the extent permitted by state law, the owner and/or operator of a facility required to have an NPDES permit to discharge stormwater associated with

industrial and/or construction activity shall submit a copy of the notice of intent to discharge stormwater (NOI) or other permit application to the city engineer concurrently with the NOI or other permit application submittal to ADEM.

(d) The copy of the NOI may be delivered to the city engineer either in person to:

City Engineer
City of Mobile
205 Government Street
South Tower, Third Floor
Mobile, AL 36644

Or by mailing to:

City Engineer
City of Mobile
P. O. Box 1827
Mobile, AL 36633-1827

(e) To the extent permitted by state law, a person commits an offense under this division if such person operates a facility on a premises that is discharging stormwater associated with industrial and/or construction activity without having obtained an NPDES permit and/or submitted a copy of the original NOI to discharge to the city engineer, or without complying with BMPs issued by the city, federal or state agency for the specific activity, operation or facility undertaken.

Sec. 17-13. - Compliance monitoring.

(a) Record retention. Owners of all properties for which a tier 1 land disturbance permit, or NPDES permit is issued and all other properties for which records of compliance with this stormwater division are required, shall maintain such records for a minimum of five (5) years. Failure to maintain said records shall be a violation of this division.

(b) Right of entry; inspection and sampling. Upon reasonable notice to the Premises owner and/or person in possession thereof, the city engineer, to the extent permissible under state law, shall be permitted to enter and inspect premises and facilities subject to regulation under this division during normal business hours as often as may be necessary to determine compliance with this division. Identification issued by the city shall be presented by the city engineer at the time of entry.

(1) If security measures are in force on a premises, then the premises owner shall make the necessary arrangements to allow access to the city engineer for the purposes of this division. Proof of an illicit discharge or an illicit connection is not required for entry onto a premises.

(2) Owners and/or operators of a premises shall allow the city engineer ready access to all parts of the premises for the purposes of inspection, sampling, photography, videotaping, testing, and examination; for the copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater; and for the performance of any additional duties as required by state and federal law.

(3) The city engineer shall have the right to set up on any premises such devices as are necessary in the opinion of the city engineer to conduct monitoring and/or sampling of the premises' stormwater flow discharges.

(4) The city engineer may require the owner and/or operator of a premises to install monitoring equipment as necessary and to make monitoring data available to the city engineer. This sampling and monitoring equipment shall be maintained at all times in a safe, calibrated and proper operating condition by the owner and/or operator and his/her/its own expense.

(5) Any temporary or permanent obstruction that prohibits safe and easy access to the premises to be inspected and/or sampled shall be promptly removed by the owner of the premises at the written or oral request of the city engineer and shall not be replaced. The costs of clearing such access shall be borne by the owner and/or operator of the premises.

(6) Unreasonable delays in allowing the city engineer access to a premises is a violation of this division. A person who is the operator of a premises with an NPDES permit to discharge stormwater commits an offense if such person denies the city engineer reasonable access to the permitted premises for the purpose of conducting any activity authorized or required by this chapter.

(c) Search warrants. If the city engineer has been refused access to any part of a premises from which stormwater is discharged, and the city engineer is able to demonstrate probable cause to believe that there may be a violation of this division, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this division or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the city engineer may seek issuance of a search warrant from the Mobile municipal court.

(d) Emergency discharge. The city engineer shall have the right to enter upon any and all parts of a premises for the purposes of inspection, sampling, and/or examination in the case of an emergency illicit discharge or a suspected emergency discharge as is necessary in the opinion of the city engineer to contain an illicit discharge. Reasonable notice of such entry under the circumstances must be given to the owner and occupant of a premises. Entry must be made during normal business hours, if possible. Identification issued by the city shall be presented at the time of entry by the city engineer.

Sec. 17-14. - Violations, enforcement and penalties.

(a) Violations. It shall be unlawful and a misdemeanor for any person to:

(1) Violate any provision of this chapter;

(2) Violate the provision of any permit issued pursuant to this chapter;

(3) Fail or refuse to comply with any lawful order or notice to abate issued by the city; or

(4) Violate the provisions of conditions and safeguards established in connection with grants of variance or special exceptions.

(b) Enforcement remedies for violations.

(1) Notices, citations. When the city has reason to believe that any person or legal entity has violated or continues to violate any provision of this chapter or any order issued hereunder, the city may serve that person a verbal warning, and, subsequent to that, a written notice of violation ("NOV") citing the particular violation(s) and requesting the offender immediately seek to remedy it. Investigation and/or resolution of the matter in response to the NOV do not relieve the alleged violator of liability for any violations occurring before or after receipt of the NOV. If the violation is not remedied within a reasonable time after issuance of the NOV, the city or its agent may cause to be served on the violator a municipal offense ticket ("MOT"), a uniform non-traffic citation and complaint ("UNTCC"), or swear out a complaint and summons before a magistrate for appearance of the violator in municipal court. All notices, citations and/or complaints shall include:

a. The name and address of the alleged violator;

b. The address of the premises (when available) or a description of the building, structure or land upon which the violation is alleged to be occurring or has occurred;

c. A citation to the section of this Code which has been alleged to have been violated;

d. A statement specifying the nature of the violation;

f. Scheduled court date and/or pay date; and

g. The amount of the scheduled fine for the offense.

(2) Stop-work order; revocation of land disturbance permit. In the event that any person holding a permit pursuant to this division violates the terms of said permit or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the city may immediately suspend or revoke the permit, without issuing a notice of violation.

(3) Authority of municipal court. The city municipal court is vested with the power and jurisdiction to hear and adjudicate the violations provided in this chapter and to issue orders imposing fines, costs and fees.
(c) Fines.

(1) First violation - The fine of sixty dollars ($60.00) shall be assessed for a first violation of this division.

(2) Second violation - The fine of one hundred fifty dollars ($150.00) shall be assessed for a second violation of this chapter within a thirty-day period.

(3) Third or subsequent violation - For a third or subsequent violation committed by the owner during a thirty-day period or longer, the violation will be adjudicated, and the penalty determined by the municipal judge.

(4) If after a ninety-day period, all violations of this division have been rectified and no additional violations have occurred during that ninety-day period, then any further violations of this chapter will be assessed as a first violation.

(d) Right to appeal. A person convicted found guilty of for a violation of this chapter may appeal within fourteen (14) days to the county circuit court for trial de novo.

(e) Delivery of notices. Whenever the city is required or permitted to:

(1) Give a notice to any party, such notice must be in writing; or

(2) Deliver a document to any party, such notice or document may be delivered by personal delivery, certified mail (return receipt requested), or registered mail (return receipt requested), to the address of such party which is in the records of the city or is otherwise known to the city.

(f) Remedies not exclusive.

(1) The remedies listed in this division are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the city to seek cumulative remedies.

(2) Nothing in this subsection shall limit the authority of the city engineer to take any action, including emergency action or any other enforcement action, without first issuing a notice of violation.

(3) Except where otherwise provided, every day any violation of this chapter or an order issued hereunder shall continue shall constitute a separate offense.

Secs. 17-15, 17-16. - Reserved.

DIVISION 2. - FLOODPLAIN REGULATIONS

Sec. 17-17. - Findings of Fact.

(a) The flood hazard areas of the city are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(b) These flood losses are caused by the occupancy in flood hazard areas of uses vulnerable to floods, which are inadequately elevated, flood-proofed or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.

Sec. 17-18. - Statement of Purpose.

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which increase flood heights, velocities or erosion;

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of flood waters;

(4) Control filling, grading, dredging, and other development which may increase erosion or flood damage; and

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazard to other lands.

Sec. 17-19. - Objectives.

The objectives of this chapter are:

(1) To protect human life and health;

(2) To minimize expenditure of public money for costly flood control projects;

(3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) To minimize prolonged business interruptions;

(5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, street and bridges located in floodplains;

(6) To help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize flood blight areas; and

(7) To ensure that potential home buyers are notified that property is in a flood area.

Sec. 17-20. Reserved

Sec. 17-21. - Lands to which this division applies.

This division shall apply to all areas of special flood hazard within the jurisdiction of the city and other areas designated by the city engineer as potential flood hazard areas.

Sec. 17-22. - Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in its flood insurance study (FIS) of the city, dated June 5, 2020, with accompanying maps and other supporting data, and any revisions thereto, are adopted by reference and declared to be a part of this division. For those land areas acquired by a municipality through annexation, the current effective FIS and data for Mobile County are hereby adopted by reference. Areas of special flood hazard may also include those areas know to have flooded historically or defined through standard engineering analysis by governmental agencies or private parties but not yet incorporated in an FIS.

Where adopted regulatory standards conflict, the more stringent base flood elevation shall prevail. Preliminary FIS data may be subject to change by a valid appeal.

Sec. 17-23. - Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur; flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any other administrative decision lawfully made thereunder.

Sec. 17-24. - Variance procedures.

(a) The city engineer shall hear and decide requests for appeals or variances from the requirements of this chapter. The city engineer will review and issue comments within fourteen (14) days from receipt of a written request.

(b) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(c) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this division are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood, and it creates no additional threats to public safety.

(d) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(e) The variance evaluation must be based on the characteristics unique to that property and not be shared by adjacent parcels. The characteristics must pertain to the land itself, not to the structure, its inhabitants, or its owners.

(f) Variances should never be granted for multiple lots, phases of subdivisions, or entire subdivisions.

(g) The danger of life and property due to flooding or erosion damage including materials that may be swept onto other lands to the injury of others. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.

(h) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner and the community.

(i) The safety of access to the property during flood conditions for daily traffic and emergency vehicles.

(j) In reviewing such requests, the city engineer shall consider all technical evaluations, relevant factors and all standards specified in this and other sections of this division.

(k) Conditions for variances: A variance shall be issued only when there is:

(1) A finding of good and sufficient cause;

(2) A determination that failure to grant the variance would result in exceptional hardship; and

(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

(l) The provisions of this division are minimum standards for flood loss reduction; therefore, any deviation from the standards must be weighed carefully. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief. In the instance of a historic structure, a determination is required that the variance is the minimum necessary so as not to destroy the historic character and design of the building.

(m) Variances shall not be issued “after the fact.”

(n) Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that specifies the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the issuance of such variance could:

(1) result in rate increases in the hundreds and possibly thousands of dollars annually depending on structure and site-specific conditions; and

(2) the increased risk to life and property resulting from construction below the base flood elevation.

(o) The city engineer shall maintain the records of all variance actions and appeal actions, including justification for their issuance. Report any variances to the Federal Emergency Management Agency Region 4 and the Alabama Department of Economic and Community Affairs/Office of Water Resources upon request.

(p) A copy of the notice shall be recorded by the City Engineer in the Office of the Probate Court and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

(q) Upon consideration of the factors listed above and the purposes of this chapter, the city engineer may attach such conditions to the granting of variances as it deems necessary to further the purposes of this division.

(r) The executive director responsible for the engineering department shall hear and decide appeals when it is alleged an error in any requirement, decision or determination is made by the city engineer in the enforcement or administration of this division.

(s) Appeal procedure: The executive director responsible for the engineering department may grant a special exception to the requirements of this division if a permittee demonstrates with written evidence that:

(1) The exception will not create any threat to the public health, safety or welfare.

(2) The permittee demonstrates that the increased economic burden and the potential adverse impact on the permittee's construction schedule resulting from the strict enforcement of the requirement actually or effectively prohibits the ability of the permittee to receive utility services in the city.

3) The permittee demonstrates that the requirement unreasonably discriminates against the permittee in favor of another person.

(t) Should any person be aggrieved by the decision of the executive director responsible for the engineering department, such person may appeal by filing written notice with the engineering department within fifteen (15) days from the date of such decision. The engineering department shall send a copy of the appeal and all relevant documentation, within fifteen (15) days, to the city clerk's office to be considered by the city council at a public hearing.

Sec. 17-25. - Construction standards for areas where the city has identified a flood hazard, but FEMA has not identified a special flood hazard area (or elevation)

When FEMA has not defined the special flood hazard areas in an area within the city, has not provided water surface elevation data, and has not provided sufficient data to identify the floodway or coastal high hazard area, but the city has through historical data identified the presence of special flood hazards, the city shall:

(1) Require permits for all proposed construction or other development in the city, including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas;

(2) Require copies of all necessary permits governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334; maintain such permits on file.

(3) Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. All new construction and substantial improvements shall:

a. Be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,

b. Be constructed with materials resistant to flood damage,

c. Be constructed by methods and practices that minimize flood damages, and

d. All heating and air conditioning equipment and components, all electrical, ventilation, plumbing, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(4) New construction and substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage:

a. All subdivision proposals shall be consistent with the need to minimize flood damage;

b. All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage,

c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and

d. Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

(5) New and replacement water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems.

(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and

(7) On-site waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.

(8) Construction must comply with all applicable requirements in the city's latest adopted building code and in all ordinances.

(9) New construction and substantial improvements of existing structures shall be anchored to prevent flotation, collapse and lateral movement of the structure.

(10)New construction and substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage.

(11) Manufactured homes shall be anchored to prevent flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State requirements for resisting wind forces.

(12) Any alteration, repair, reconstruction or improvement to a structure which is not compliant with the provisions of this chapter, shall be undertaken only if the non-conformity is not furthered, extended or replaced.

(13)Proposed new construction and substantial improvements that are partially located in an area of special flood hazard shall have the entire structure meet the standards for new construction.

(14)Proposed new construction and substantial improvements that are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations shall have the entire structure meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.

Sec. 17-26. - Construction standards for special flood hazard areas (Approximate A zones and X-shaded zones).

When FEMA has designated areas of special flood hazards (Approximate A zones and X-shaded zones) by the publication of the city's FHBM or FIRM, but has neither produced water surface elevation data nor identified a floodway or coastal high hazard area, the city shall:

(1) Require permits for all proposed construction and other developments including the placement of manufactured homes, within Zone A or Zone X-shaded on the community's FHBM or FIRM;

(2) All development within zone A or zone X-shaded on the community's FHBM or FIRM must meet the requirements of Section 17-25;

(3) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data;

(4) Obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, including data developed pursuant to paragraph (3) of this section, as criteria for requiring that new construction, substantial improvements, or other development in zone A or zone X-shaded on the community's FHBM or FIRM meet the standards in paragraphs section 17-27(2), (3), (5), (6), (7), and (8), section 17-28(2) and (3);

(5) Where base flood elevation data are utilized, within zone A or zone X-shaded on the community's FHBM or FIRM:

a. The lowest floor, including basement, shall be elevated to the base flood elevation for all new and substantially improved structures, including manufactured homes;

b. Obtain the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures, and

c. Obtain, if the structure has been flood-proofed in accordance with paragraph (4) of section 17-27, the elevation (in relation to mean sea level) to which the structure was flood-proofed, and

d. Maintain a record of all such information with the director of the permitting department;

(6) Notify, in riverine situations, adjacent communities and the state coordinating office prior to any alteration or relocation of a water course, and submit copies of such notifications to FEMA and the Alabama Department of Economic and Community Affairs/Office of Water Resources/NFIP State Coordinator's Office within six (6) months;

(7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained;

(8) Require that all manufactured homes to be placed within zone A or zone X-shaded on the city's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

(9) When base flood elevation data or floodway data have not been provided in accordance with Section 17-22 then the City Engineer shall obtain, review, and reasonably utilize any scientific or historic Base Flood Elevation and floodway data available from a Federal, State, or other source, in order to administer the provisions of Sections 17-25, 17-26 and 17-27. ONLY if data are not available from these sources, then Section 17-26 (11) and (12) shall apply.

(10) No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or 25 feet, whichever is greater, measured from the top of the stream bank, unless certification with supporting engineering calculations/hydraulic analysis by a registered professional engineer is provided demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(11) In special flood hazard areas without base flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor (for the lowest enclosed area; including basement) elevated no less than three (3) feet above the highest adjacent grade.

(12) In the absence of a base flood elevation, a manufactured home must also meet the elevation requirements of Section 17-27(7) b. in that the structure must be elevated to a maximum of 60 inches (5 feet).

(13) Openings sufficient to facilitate automatic equalization of flood water hydrostatic forces on exterior walls shall be provided in accordance with standards of Section 17-27(5). The City Engineer shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

(14) Fill within the area of special flood hazard shall result in no net loss of natural floodplain storage. The volume of loss of floodwater storage due to filling in the special flood hazard area shall be offset by providing an equal volume of flood storage by excavation or other compensatory measures at or adjacent to the development site. Any excavation or other measures taken for compensatory storage shall be properly designed to provide protection against erosion or overgrowth of vegetation in order to preserve the storage volume. Proper maintenance measures shall also be undertaken to ensure the intended storage volume remains in perpetuity.

Sec. 17-27. - Construction standards for areas without established base flood elevation and floodways (A1-30 zones, AE zones, AH zones, AO zones, and X-shaded zones).

When the FEMA has provided a notice of final flood elevations for one (1) or more special flood hazard areas on the city's FIRM and, if appropriate, has designated other special flood hazard areas without base flood elevations on the city's FIRM, but has not identified a regulatory floodway or coastal high hazard area, the city shall:

(1) Require the standards of section 17-25 to all A1-30 zones, AE zones, A zones, AH zones, AO zones, and X-shaded zones on the city's FIRM;

(2) Residential and Non-Residential Structures Where base flood elevation data is available, new construction and substantial improvement of any structure or manufactured home shall have the lowest floor including basement, elevated to the base flood elevation unless the city is granted an exception by the administrator for the allowance of basements in accordance with the Code of Federal Regulations, Title 44, Volume 1, sec. 60.6(b) or (c); Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Section 17-27(4).

(3) Non-Residential Structures New construction and substantial improvements of non-residential structures located in zones A1-30, AE and AH zones, and X-shaded zones on the city's FIRM, may be floodproofed in lieu of elevation.

The structure, together with attendant utility and sanitary facilities, must be designed to be watertight above the base flood elevation, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(4) Provide that where a non-residential structure is intended to be made watertight below the base flood level,

a. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide official as set forth above and in Section 17-5(4).

b. A record of such certificates which includes the specific elevation (in relation to mean sea level) to which such structures are flood-proofed shall be maintained with the director of the permitting department;

c. Dry flood proofing is allowed only where flood velocities are less than or equal to five feet per second. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. A Flood Emergency Operation Plan and an Inspection and Maintenance Plan must be provided by the design professional for the building. Such certification shall be provided to the City Engineer.

(5) Enclosures for Elevated Buildings - All new construction and substantial improvements of existing structures, that include ANY fully enclosed areas below the base flood elevation, located between the lowest floor formed by the foundation and the other exterior walls shall be designed so as to be an unfinished or flood resistant enclosure. The enclosure shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

a. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

i. Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding (if a structure has more than one enclosed area below the base flood elevation, each shall have openings on exterior walls);

ii. The bottom of all openings shall be no higher than one (1) foot above grade; and

iii. Openings may be equipped with screens, louvers, valves, coverings or devices provided that they permit the automatic flow of floodwater in both directions.

b. So as not to violate the "Lowest Floor" criteria of this chapter, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area.

c. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms. All interior walls, ceilings and floors below the base flood elevation shall be unfinished and/or constructed of flood resistant materials.

d. Mechanical, electrical or plumbing devices shall not be installed below the Base Flood Elevation. The interior portion of such enclosed area(s) shall be void of utilities except for essential lighting and power as required.

(6) Standards for Manufactured Homes and Recreational Vehicles - within zones A1-30, AH, AE, and X-shaded on the city's FIRM:

a. All manufactured homes placed or substantially improved on:

i. individual lots or parcels outside of a manufactured home park or subdivision,

ii. in new or substantially improved manufactured home parks or subdivisions,

iii. in expansions to existing manufactured home park or subdivisions, or

iv. on a site in an existing manufactured home park or subdivision where a manufactured home has incurred "substantial damage" as the result of a flood, must have the lowest floor including basement elevated no lower than the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation collapse and lateral movement.

(7) Manufactured homes placed and substantially improved in an existing manufactured home park or subdivision within zones A-1-30, AH, AE, and X-shaded on the city's FIRM that are not subject to the provisions of paragraph (6) of this section be elevated so that either:

a. The lowest floor of the manufactured home is no lower than the level of the base flood elevation, or

b. Where no Base Flood Elevation exists, the manufactured home chassis and supporting equipment is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and is elevated to a maximum of 60 inches (five (5) feet) above grade and must also meet the standards of Section 17-26(11).

c. All Manufactured home must be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.

(8) All recreational vehicles placed on sites within zones A1-30, AH, AE, and X-shaded on the city's FIRM must either:

a. Be on the site for fewer than one hundred eighty (180) consecutive days,

b. Be fully licensed and ready for highway use, or

c. Meet the permit requirements of paragraph (1) of Section 17-26 and the elevation and anchoring requirements for "manufactured homes" in paragraph (6) of this section. A

recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions., or

d. The recreational vehicle must meet all the requirements for “New Construction,” including the anchoring and elevation requirements of Section 17-27 (5) a. & b.

(9) Within any AO or X-shaded zone on the city's FIRM all new construction and substantial improvements of residential and non-residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the city's FIRM. If no depth number is specified, the lowest floor, including basement, shall be elevated at least two (2) feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Section 17-27(5), “Enclosures for Elevated Buildings”.

The City Engineer shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

(10) Within any AO or X-shaded zone on the city's FIRM all new construction and substantial improvements of nonresidential structures may be flood-proofed in lieu of elevation.

a. Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified), or

b. The structure, together with attendant utility and sanitary facilities must be completely flood-proofed to that level to meet the flood-proofing standard specified in paragraph (2) of this section; or

c. together with attendant utility and sanitary facilities, must be designed to be water tight to the specified flood level as specified in Section 17-27(5) or two (2) feet (if no depth number is specified), above highest adjacent grade, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and as required in Section 17-6(d) (2) and 17-22.

(11) Require within any A99 or X-shaded zones on the city's FIRM the standards of paragraphs section 17-25(1) through (4) a. and section 17-26(5) through (8) of this chapter;

(12) Require, until a regulatory floodway is designated, that no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30, AE, or X-shaded on the city’s FIRM, unless it has been demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment will not increase the base flood discharge at any point in the city;

(13) Require within zones AH, AO, and X-shaded adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

(14) Notwithstanding any other provisions of this chapter, the city may approve certain development in zones Al-30, AE, AH, and X-shaded on the city's FIRM which do not increase the water surface elevation of the base flood, provided that the city first applies for a conditional FIRM revision, fulfills the requirements for such a revision as established under the provisions of the Code of Federal Regulations, title 44, volume 1, sec. 65.12, and receives the approval of FEMA.

(15) Accessory Structures (also referred to as appurtenant structures) – This provision generally applies to new and substantially improved accessory structures. When an accessory structure complies with all other provisions of this chapter (including floodway encroachment), represents a minimal investment (less than $1000), and meets the requirements outlined below, these structures may be wet-floodproofed and do not have to be elevated or dry floodproofed.

Accessory structures include, but are not limited to, residential structures such as detached garages, storage sheds for garden tools or woodworking, gazebos, picnic pavilions, boathouses, small pole barns, and similar buildings. The following provisions apply to accessory structures built below the base flood elevation:

a. No accessory buildings in special flood hazard areas designated VE or V-Zone or "Coastal AE" are allowed.

b. A permit shall be required prior to construction or installation.

c. Must be low value (less than $1000) and not be used for human habitation.

d. Use must be restricted to parking of personal vehicles or limited storage (low-cost items that cannot be conveniently stored in the principal structure).

e. Must be designed with an unfinished interior and constructed with flood damage-resistant materials below the BFE.

f. Must be adequately anchored to prevent flotation, collapse, or lateral movement.

g. Must have adequate flood openings as described in Section 17-25 (3) d. and be designed to otherwise have low flood damage potential.

h. Shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

i. Any mechanical and other utility equipment in the structure must be elevated to or above the BFE or must be floodproofed.

j. Under limited circumstances communities may issue variances to permit construction of wet-floodproofed accessory structures. Communities should not grant variances to entire subdivisions for accessory structures, especially detached garages. Variances should only be reviewed and issued on an individual or case-by-case basis and be based on the unique characteristics of the site.

Sec. 17-28. - Construction standards for special flood hazard area floodways (AE or X-shaded zones).

When FEMA has provided a notice of final base flood elevations within zones A1-30 and/or AE on the city's FIRM and, if appropriate, has designated AO zones, AH zones, A99 zones, A and X-shaded zones on the city's FIRM, and has provided data from which the city shall designate its regulatory floodway, the city shall:

(1) Only if the requirements of paragraphs (1) through (15) of section 17-27 of this chapter are satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of Section 17-28;

(2) The City shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood, without increasing the water surface elevation of that flood at any point;

(3) Require that floodways remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore, the following provisions shall apply:

a. Encroachments are prohibited, including earthen fill, new construction, substantial improvements, disturbance of natural vegetation, or other development within the adopted regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment shall not result in any increase in flood levels or floodway widths during a base flood discharge, and that velocities of floodwaters and erosion potential are not increased. The hydrologic and hydraulic analysis shall also include:

i. Data that identifies soil types and addresses their potential for erosion before and after development; and
ii. A survey of existing vegetation within the affected area and the potential impact on water quality resulting from the proposed development. A registered professional engineer must provide supporting technical data and certification thereof.

(4) The city may permit encroachments within the adopted regulatory floodway that would not result in an increase in base flood elevations, provided that the city first applies for a conditional letter of map revision (CLOMR) and floodway revision, fulfills the requirements for such revisions as established under the provisions of the Code of Federal Regulations, title 44, volume 1, sec. 65.12, and receives the approval of FEMA.

Sec. 17-29. - Construction standards for coastal high hazard areas (V zones).

When FEMA has provided a notice of final base flood elevations within zones A1-30 and/or AE on the city's FIRM and, if appropriate, has designated AH zones, AO zones, A99 zones, A and X-shaded zones on the city's FIRM, and has identified on the city's FIRM coastal high hazard areas by designating zones V1-30, VE, V, and/or coastal AE, the city shall:

(1) Meet the requirements of paragraphs (1) through (15) of section 17-27;

(2) Within zones V1-30, VE, and V on the city's FIRM:

a. Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures, in VE Zones and Coastal AE Zones and whether or not such structures contain a basement, and

b. The director of the permitting department shall maintain a record of all such information.

(3) All new construction within zones V1-30, VE, V, and/or Coastal AE Zones on the city's FIRM shall be located landward of the reach of mean high tide;

(4) All new construction and substantial improvements in zones V1-30 and VE and Coastal AE Zones, and also zone V if base flood elevation data is available, on the city's FIRM, shall be elevated on piles, columns, or shear walls parallel to the flow of water so that:

a. The bottom of the lowest supporting horizontal structural member (excluding the pilings or columns) is located to no lower than the base flood elevation level; and

b. All pile and column foundation and the structures attached thereto shall be anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on ALL building components, both (non-structural and structural).

c. Water loading values used shall equal or exceed those of the base flood.

d. Wind loading values used shall be in accordance with the latest adopted building code by the City.

e. All new construction and substantial improvements of existing structures shall be securely anchored on pilings, columns, or shear walls.

f. A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in full compliance with the provisions contained in Section 17-29(4) a through f.

(5) For all new construction and substantial improvements within zones V1-30, VE, and V and Coastal AE Zones on the city's FIRM, the space below the lowest horizontal-supporting member must remain free of obstruction. As an alternative, the space may be constructed with non-supporting breakaway walls, open wood or vinyl lattice-work, or insect screening which must be designed to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. The following design specifications are required:

a. No solid walls shall be allowed, and;

b. Material shall consist of lattice or mesh screening only.

c. If aesthetic lattice work, breakaway walls, or screening is utilized, any enclosed space shall not be used for human habitation but, shall be designed to be used only for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises.

d. For the purposes of this section, a breakaway wall shall have a design safe loading resistance of not less than ten (10) and no more than twenty (20) pounds per square foot. Breakaway wall enclosures shall not exceed 299 square feet. Use of breakaway walls which exceed a design safe loading resistance of twenty (20) pounds per square foot (either by design or when so required by local codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

i. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and,

ii. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the combined effects of wind and water loads acting simultaneously on all building components (structural and non-structural).

iii. Water loading values used shall be those associated with the base flood

iv. Wind loading values used shall be those required by applicable state or latest adopted building code.

v. Enclosures below elevated buildings shall be useable solely for parking of vehicles, building access, or storage. Such space will not be used for human habitation and not finished or partitioned into separate rooms.

e. Prior to construction, plans for any structure using lattice, breakaway walls, or decorative screening must be submitted to the permitting department for approval.

f. Any alteration, repair, reconstruction or improvement to any structure shall not enclose the space below the lowest floor except with latticework, breakaway walls, or decorative screening, as provided in this Section.

(6) Under the buildings or structures, no fill may be used except for minor site grading for drainage purposes. Nonstructural fill may be used on coastal building sites for minor landscaping and site grading for drainage purposes to the extent that the fill does not interfere with the free passage of floodwaters and debris underneath the building or cause changes in flow direction during coastal storms. Changes to site grades, other than those prescribed, must be avoided as they can cause additional damage to buildings on the site or to adjacent buildings.

Fill placed in coastal zones should be similar (compatible) to the natural soils in the area and not contain large rocks or debris, organic materials, or clay. Minor site grading is to be limited to the addition of one to two feet of coastal zone compatible soils. If additional fill (greater than two feet) or non-compatible soils are to be added to the site, certification by a professional engineer or architect shall be submitted along with design calculations demonstrating that no adverse impacts will result to the building. (For guidance, see FEMA Technical Bulletin #5 “Free of Obstruction Requirements”).

The city engineer shall approve design plans for landscaping/aesthetic fill only after the applicant has provided an analysis by an engineer, architect and/or soil scientist, which demonstrates that the following factors have been fully considered:

a. Particle composition of fill material does not have a tendency for excessive natural compaction;

b. Volume and distribution of fill will not cause wave deflection to adjacent properties, and

c. Slope of fill will not cause wave run-up or ramping;

(7) Prohibit man-made alteration of sand dunes and mangrove stands within zones V1-30, VE, and V on the city's FIRM which would increase potential flood damage.

(8) Prohibit the placement of manufactured homes (mobile homes), except in an existing manufactured homes park or subdivision V1-30, V, and VE on the city's FIRM. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and elevation standards of Section 17-27(7) a. and c. are met. All standards from Section 17-27(6) and (7) must also be met.

(9) Permit recreational vehicles in VE Zones and Coastal AE Zones if they meet all of the requirements of Section 17-27(8). In addition, if they are not compliant with Section 17-27(8) a., then they must also meet all requirements in Section 17-29 (1) to (8).

Sec. 17-30. - Reserved.

Sec. 17-31. - Hazardous waste materials or substances.

No construction, plants, facilities or structures that process or store hazardous waste substances shall be permitted within the one hundred-year floodplain, five hundred-year floodplain or coastal high hazard areas.

ARTICLE II. RESERVED

Sec. 17-32.17-33; 17-34; Reserved

ARTICLE II STORMWATER MANAGEMENT

DIVISION 1. - GENERALLY

Sec. 17-35; 17-36; 17-37; 17-38;17-39;17-40. Reserved

DIVISION 2. - CHARGES

Sec. 17-41. - Findings.

(a) The city maintains a municipal separate storm sewer system ("MS4") in accordance with federal and state law, the Clean Water Act, 33 USC § 1251, et seq., the Alabama Water Pollution Control Act and the Alabama Environmental Management Act.

(b) The city incurs substantial expenses to comply with federal and state stormwater laws.

(c) The state legislature recognized that the implementation of efficient and effective stormwater programs promotes the public interest and that counties and municipalities

require funding to implement and enforce their stormwater management programs, Acts of Alabama, Act No. 2014-439, Code of Alabama, § 11-89C-1 et seq.

(d) The Code of Alabama (1975), § 11-89C-9(d), authorizes the governing bodies of municipalities in the state with National Pollutant Discharge Elimination System ("NPDES") permits for MS4s to levy a stormwater fee, charge or assessment in accordance with the terms and conditions set out therein.

(e) The council finds and determines that it is in the public interest to establish a stormwater fee as authorized by the Code of Alabama, § 11-89C-9(d).

Sec. 17-42. Reserved

Sec. 17-43. - Levy.

(a) Residential property. There is hereby levied pursuant to the Code of Alabama, § 11-89C-9(d)(2), an annual assessment in the amount of $10.00 per year from or against the owners of residential property in the city limits.

(b) Commercial property. There is hereby levied pursuant to the Code of Alabama, § 11-89C-9(d)(3), an annual assessment in the amount of $0.005 per square foot of commercial space from or against the owners of commercial property in the city limits of the city, provided, however, that no such fee shall exceed $3,000.00 per year.

Sec. 17-44. - Exemptions.

The following are exempted from the stormwater fees levied under section 17-43 herein:

(1) Lands and/or facilities owned and/or operated by one or more entities under the jurisdiction and supervision of the state public service commission.

(2) Lands and/or facilities owned and/or operated by any commission nonjurisdictional electric supplier, as defined by § 37-4-140, whose service area extends beyond the boundaries of a single municipal or county jurisdiction.

(3) Greenfields and/or agricultural land.

Sec. 17-45. - Effective date.

The stormwater fee levied hereby shall become effective upon the effective date of Ord. No. 01-024-2018 (August 21, 2018), and shall be added to affected property tax bills on the October 1 immediately following the effective date.

Sec. 17-46. - Collection.

(a) By agreement with the revenue commissioner of the county, the stormwater fee shall be assessed, collected and enforced in the same manner as ad valorem taxes, and shall be a lien upon any land to which it may be levied.

(b) The city shall pay to the revenue commissioner a one percent commission on all amounts collected, which commission shall be deposited to the county general fund.

(c) On a quarterly basis, not later than the twentieth day of January, April, July and October, the city will remit five percent of all stormwater fees collected to the state department of revenue, which will transfer 95 percent of the fees it receives to the state treasury to the credit of the state department of environmental management to be used exclusively to pay the costs of performing its duties to carry out programs to implement the stormwater laws.

Sec. 17-47. - Stormwater fund.

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

Sec. 17-48. - Appeal.

Any person aggrieved by the assessment of a stormwater fee levied hereunder may file a written appeal with the city clerk within the 60-da y period following either notice of the fee or payment of the fee, whichever occurs first. The appeal shall explain in detail the reason(s) the person filing the appeal asserts that the stormwater fee was assessed in error. The city clerk will forward the appeal to the engineering department, which will review the appeal and either:

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

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

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

Severability. If any section, clause, sentence, or phrase of this chapter is held to be invalid or unconstitutional by a court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this chapter.

Savings Clause. If any section, subsection, sentence, clause, phrase, or word of this chapter is for any reason held to be noncompliant with 44 Code of Federal Regulation 59-78, such decision shall not affect the validity of the remaining portions of this chapter.

Effective Date. This Ordinance shall be in full force and effect on and after its adoption by the City Council and publication as required by law.

AUTHORIZE AN INTERAGENCY AGREEMENT WITH THE ALABAMA DEPARTMENT OF HUMAN RESOURCES FOR FUNDING FOR SUMMER YOUTH EMPLOYMENT, $220,650.00. The following resolution was held over until the regular meeting of May 19, 2020.

RESOLUTION: 01-342-2020

Sponsored by: Mayor Stimpson

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA, that the Mayor and the City Clerk be, and they hereby are, authorized and directed to execute and attest, respectively, for and on behalf of the City of Mobile, an interagency Agreement by and between the Alabama Department of Human Resources and the City of Mobile, in an amount not to exceed $220,650.00, for funding for summer youth employment, as outlined in the agreement attached hereto and made a part hereof as though set forth in full. A copy of said agreement is on file in the office of the City Clerk.

BE IT FURTHER RESOLVED that the City Council of the City of Mobile, Alabama, finds that this resolution is either necessary to respond to COVID-19 or necessary to perform essential minimum functions of the Council.

APPROVE PURCHASE ORDER TO SANSOM EQUIPMENT CO., INC. FOR STREET SWEEPER, $244,320.00. The following resolution was held over until the regular meeting of May 19, 2020.

RESOLUTION: 08-343-2020

Sponsored by: Mayor Stimpson

BE IT RESOLVED BY THE CITY COUNCIL OF MOBILE, ALABAMA, that the Purchasing Agent is authorized to execute, for and on behalf of the City of Mobile, a purchase order to the indicated vendor in the approximate amount stated, and to approve the supporting bid award if required, for the following requisition as indicated below and attached herein:

Requisition	Fiscal Year	Department	Description	Amount	Vendor
10322	2020	(F7000) MOTOR POOL	ELGIN PELICAN THREE-WHEELED MECHANICAL STREET SWEEPER (SEALED BID 5380)	$244,320.00	(190715) SANSOM EQUIPMENT CO INC

BE IT FURTHER RESOLVED THAT the City Council of the City of Mobile, Alabama, finds that this resolution is either necessary to respond to COVID-19 or necessary to perform essential minimum functions of the Council.

APPROVE PURCHASE ORDER TO CDW GOVERNMENT LLC FOR BACKUP/RECOVERY APPLIANCE, $37,777.78. The following resolution was held over until the regular meeting of May 19, 2020.

RESOLUTION: 08-344-2020

Sponsored by: Mayor Stimpson

BE IT RESOLVED BY THE CITY COUNCIL OF MOBILE, ALABAMA, that the Purchasing Agent is authorized to execute, for and on behalf of the City of Mobile, a purchase order to the indicated vendor in the approximate amount stated, and to approve the supporting bid award if required, for the following requisition as indicated below and attached herein:

Requisition	Fiscal Year	Department	Description	Amount	Vendor
10879	2020	(5000) INFORMATION TECHNOLOGY	UNITREND ENTERPRISE 40TB 8040S DATA BACKUP/RECOVERY APPLIANCE w/3YR SERVICE PLAN (NATIONAL IPA COOPERATIVE PURCHASING AGREEMENT – NOT ON AL STATE CONTRACT)	$37,777.78	(272932) CDW GOVERNMENT LLC

BE IT FURTHER RESOLVED THAT the City Council of the City of Mobile, Alabama, finds that this resolution is either necessary to respond to COVID-19 or necessary to perform essential minimum functions of the Council.

AUTHORIZE A 3-YEAR SERVICE CONTRACT WITH KONE, INC. FOR ELEVATORS AND ESCALATORS SERVICE & PREVENTATIVE MAINTENANCE AT VARIOUS CITY OF MOBILE LOCATIONS; $333,936.00. The following resolution was held over until the regular meeting of May 19, 2020.

RESOLUTION: 21-345-2020

Sponsored by: Mayor Stimpson

BE IT RESOLVED BY THE CITY COUNCIL OF MOBILE, ALABAMA, that the Mayor and the City Clerk be, and they hereby are, authorized and directed to execute and attest, respectively, for and on behalf of the City of Mobile, a Contract, by and between the City of Mobile, and the company listed below, for work as outlined in the contract attached hereto and made a part hereof as though set forth in full. A copy of said contract is on file in the office of the City Clerk.

Name of company: KONE, INC.

Project name: VARIOUS CITY OF MOBILE LOCATIONS – ELEVATORS & ESCALATORS SERVICE & PREVENTATIVE MAINTENANCE

Project no.: SC-018-20

Amount: $333,936.00 TOTAL CONTRACT SUM (Year 1 $107,976.00; Year 2 = $111,240.00; Year 3 = $114,720.00)

CONTRACT WITH GOODWYN, MILLS AND CAWOOD FOR LANGAN PARK – DRAINAGE REPAIRS – PLAYGROUND AREA, $18,180.00 The following resolution was held over until the regular meeting of May 19, 2020.

RESOLUTION: 21-346-2020

Sponsored by: Councilmember Gregory and Mayor Stimpson

BE IT RESOLVED BY THE CITY COUNCIL OF MOBILE, ALABAMA, that the Mayor and the City Clerk be, and they hereby are, authorized and directed to execute and attest, respectively, for and on behalf of the City of Mobile, a Contract, that is necessary to perform essential minimum functions of the Council, by and between the City of Mobile, and the company listed below, for work as outlined in the contract attached hereto and made a part hereof as though set forth in full. A copy of said contract is on file in the office of the City Clerk.

Name of company: Goodwyn, Mills & Cawood, Inc.

Project name: Langan Park – Drainage Repairs – Playground Area

Project number: PR-066-18

Amount: $18,180.00 (2020 CIP#2084, D7)

AUTHORIZE 1-YEAR SERVICE CONTRACT WITH MORROW CONTRACTING, INC., D/B/A ADVANCED SERVICE PLUS PLUMBING COMPANY, FOR PLUMBING SERVICES AT VARIOUS CITY FACILITIES; $100,000.00. The following resolution was held over until the regular meeting of May 19, 2020.

RESOLUTION: 21-347-2020

Sponsored by: Mayor Stimpson

BE IT RESOLVED BY THE CITY COUNCIL OF MOBILE, ALABAMA, that the Mayor and the City Clerk be, and they hereby are, authorized and directed to execute and attest, respectively, for and on behalf of the City of Mobile, a Contract, that is necessary to perform essential minimum functions of the Council, by and between the City of Mobile, and the company listed below, for work as outlined in the contract attached hereto and made a part hereof as though set forth in full. A copy of said contract is on file in the office of the City Clerk.

Name of company: MORROW CONTRACTING, INC.
D/B/A ADVANCED SERVICE PLUS
PLUMBING COMPANY

Project name: VARIOUS CITY OF MOBILE FACILITIES –
PLUMBING SERVICES (1-YEAR SERVICE CONTRACT)

Project number: FM-119-20

Amount: $100,000.00

BE IT FURTHER RESOLVED that the City Council of the City of Mobile, Alabama, finds that this Resolution is either necessary to respond to COVID-19 or necessary to perform essential minimum functions of the Council.

AUTHORIZE CONTRACT WITH SHAW CONTRACT FLOORING SERVICE, INC., D/B/A SHAW SPORTS TURF, FOR HERNDON-SAGE PARK – SYNTHETIC TURF ATHLETIC FIELDS MAINTENANCE, $53,783.00. The following resolution was held over until the regular meeting of May 19, 2020.

RESOLUTION: 21-348-2020

Sponsored by: Councilmember Richardson and Mayor Stimpson

BE IT RESOLVED BY THE CITY COUNCIL OF MOBILE, ALABAMA, that the Mayor and the City Clerk be, and they hereby are, authorized and directed to execute and attest, respectively, for and on behalf of the City of Mobile, a Contract, that is necessary to perform essential minimum functions of the Council, by and between the City of Mobile, and the company listed below, for work as outlined in the contract attached hereto and made a part hereof as though set forth in full. A copy of said contract is on file in the office of the City Clerk.

Name of company:	Shaw Contract Flooring Services, Inc., d/b/a Shaw Sports Turf
Project name:	Herndon-Sage Park – Synthetic Turf Athletic Fields Maintenance
Project number:	PR-030-20
Amount:	$53,783.00 (2018 CIP #2017-48, D1)

GRANT TWO (2) EASEMENTS TO ALABAMA POWER COMPANY TO REMOVE GUY WIRES AND INSTALL POLES IN TRICENTENNIAL PARK AND REPLACE POLES IN THE CHATEAUGUAY SUBDIVISION (THREE MILE CREEK SEWER TRUNK LINE PROJECT). The following resolution was held over until the regular meeting of May 19, 2020.

RESOLUTION: 25-349-2020

Sponsored by: Councilmember Richardson and Mayor Stimpson

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA, that the Mayor and City Clerk be, and they hereby are, authorized and directed to execute and attest, respectively, for and on behalf of the City of Mobile, two (2) permanent easements, that are necessary to perform essential minimum functions of the Council, to ALABAMA POWER COMPANY as set out in W.E. #A655314B320, a copy of which is attached hereto and made a part hereof as though fully set forth herein, for and in consideration of the sum of ONE and 00/100 DOLLARS ($1.00), needed for the ALABAMA POWER COMPANY to remove guy wires in Tricentennial Park and two (2) poles in the Chateauguay subdivision that are in conflict with the Three Mile Creek Sewer Trunk Line project; and install one (1) pole in Tricentennial Park and two (2) poles in the Chateauguay subdivision.

BE IT FURTHER RESOLVED that the City Council of the City of Mobile, Alabama, finds that this resolution is either necessary to respond to COVID-19 or necessary to perform essential minimum functions of the Council.

AUTHORIZE FY20 ASSISTANCE TO FIREFIGHTERS GRANT PROGRAM – COVID-19 SUPPLEMENTAL, $118,117.36 (10% COST MATCH). The following resolution was held over until the regular meeting of May 19, 2020.

RESOLUTION: 31-350-2020

Sponsored by: Mayor Stimpson

WHEREAS, the City Council of the City of Mobile, Alabama, finds that the subject of this Resolution is either necessary to respond to COVID 19, or necessary to perform essential minimum functions of the Council, the Mayor is authorized to apply, accept and receive from the U.S. Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), a Notice of Award for grant assistance in the approximate amount of $118,117.36 for the FY 2020 Assistance to Firefighters Grant Program – COVID-19 Supplemental.

BE IT FURTHER RESOLVED that the Mayor or his designee be authorized to accept said grant if offered and to sign any agreements or other documents in connection with the grant application and to provide any information required by the U.S. Department of

Homeland Security. Any agreements for grant assistance, together with the exhibits, shall be filed with the City Clerk after award and execution.

BE IT FURTHER RESOLVED that the Council authorizes the expenditure of 10% matching funds in the amount of $10,737.94 in the event this grant is received.

AUTHORIZE FY 2019 FIRE PREVENTION AND SAFETY GRANT, $155,925.00 (5% MATCH). The following resolution was held over until the regular meeting of May 19, 2020.

RESOLUTION: 31-351-2020

Sponsored by: Mayor Stimpson

WHEREAS, the City Council of the City of Mobile, Alabama, finds that the subject of this Resolution is either necessary to respond to COVID 19, or necessary to perform essential minimum functions of the Council, the Mayor is authorized to apply, accept and receive from the U.S. Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), a Notice of Award for grant assistance in the approximate amount of $155,925.00 for the FY 2019 Fire Prevention and Safety (FP & S) Grant.

BE IT FURTHER RESOLVED that the Mayor or his designee be authorized to accept said grant if offered and to sign any agreements or other documents in connection with the grant application and to provide any information required by the U.S. Department of Homeland Security. Any agreements for grant assistance, together with the exhibits, shall be filed with the City Clerk after award and execution.

BE IT FURTHER RESOLVED that the Council authorizes the expenditure of 5% matching funds in the amount of $7,425.00 in the event this grant is received.

AUTHORIZE GRANT APPLICATION TO THE J. L. BEDSOLE FOUNDATION FOR THE NATIONAL MARITIME MUSEUM, $24,145.95 (NO MATCH). The following resolution was held over until the regular meeting of May 19, 2020.

RESOLUTION: 31-352-2020

Sponsored by: Mayor Stimpson

WHEREAS, the City Council of the City of Mobile, Alabama, finds that the subject of this Resolution is either necessary to respond to COVID 19, or necessary to perform essential minimum functions of the Council, the Mayor is authorized to apply, accept and receive grant assistance from The J. L Bedsole Foundation for a community grant in the amount of $24,145.95.

BE IT FURTHER RESOLVED that the Mayor or his designee be authorized to accept said grant if offered and to sign any agreements or other documents in connection with the grant application and to provide any information required by The J.L. Bedsole Foundation. Any agreements for grant assistance, together with the exhibits, shall be filed with the City Clerk after award and execution.

RESOLUTION TO AUTHORIZE AND APPROVE AN EMERGENCY GRANT PROGRAM FOR SMALL BUSINESSES IN RESPONSE TO COVID-19. The following resolution was introduced by Councilmember Williams.

RESOLUTION: 60-353-2020

Sponsored by; Mayor Stimpson

A RESOLUTION TO AUTHORIZE AND APPROVE AN EMERGENCY GRANT PROGRAM FOR SMALL BUSINESSES IN RESPONSE TO COVID-19

WHEREAS, due to the coronavirus pandemic the Governor of the State of Alabama, on March 13, 2020, declared a state public health emergency pursuant to the Alabama Emergency Management Act of 1955, as amended; and,

WHEREAS, by Resolution on March 17, 2020, the City Council of the City of Mobile declared that a public health emergency exists in the City of Mobile due to the coronavirus pandemic; and,

WHEREAS, this unprecedented national crisis has caused and will continue to cause drastic negative effects on the national, state and local economies; and,

WHEREAS, the City Council of the City of Mobile recognizes that small businesses within the City of Mobile may not have the financial means to withstand prolonged shutdowns and limitations on normal business operations; and,

WHEREAS, Code of Alabama § 11-44C-58 authorizes emergency appropriations to meet a pressing public need for public expenditures to protect the public health, safety and welfare upon recommendation of the Mayor and, under Code of Alabama § 11-44C-62, the Mayor recommended and the Director of Finance has certified that an unappropriated sum sufficient to meet the appropriation set forth herein is available; and,

WHEREAS, the Attorney General of the State of Alabama has opined that the granting of public funds to private individuals or entities is proper if the City Council determines that the same serves a public purpose; and,

WHEREAS, in Slawson v. Alabama Forestry Commission, 631 So.2d 953 (Ala. 1994) the Alabama Supreme Court opined that a public purpose has for its objective the promotion of public health, safety, morals, security, prosperity, contentment and the general welfare of the community; and,

WHEREAS, the City Council of the City of Mobile wishes to appropriate funding to establish a grant program to be known as the Ignite Mobile Small Business Grant Program (“Ignite Mobile”) providing grants to small businesses within the City of Mobile closed by order of the State Health Officer on April 28, 2020, due to Risk of Infection by COVID-19, and meeting certain criteria based on demonstrated and documented need to prevent staff reductions and maintain these businesses, which program will help offset the negative economic effects of the coronavirus crisis on the City of Mobile and its citizens and businesses; and,

WHEREAS, Pursuant to Amendment No. 772 to the Constitution of Alabama of 1901, as amended (“Amendment No. 772”), the City is authorized, upon compliance therewith, to lend its credit to, or grant public funds and things of value in aid of or to any individual, firm, corporation or other business entity, public or private, for the purpose of promoting the economic and industrial development of the City; and,

WHEREAS, the City Council for the City of Mobile determines that the expenditure of public funds to establish the Ignite Mobile program serves a public purpose and will promote the economic development of the municipality by saving jobs and businesses.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA that;

1. The City has published a notice in the newspaper with the largest circulation in the City at least 7 days prior to its public meeting, which notice described in reasonable detail the action proposed to be taken, the public benefits sought to be achieved by the action, and identified each individual, firm, corporation, or other business entities to whom or for whose benefit the City proposes to grant public funds as set forth in Exhibit 1, attached hereto and incorporated herein; and

2. At the time and place identified in said notice, the City Council for the City of Mobile considered said action and hereby finds that the expenditure of public funds in the amount not to exceed Five Hundred Thousand Dollars ($500,000.00) to fund a grant program

known as “Ignite Mobile” for small businesses ordered closed by order of the State Health Officer on April 28, 2020, in response to COVID-19 that utilizes the standards and criteria set forth in Exhibit 2. A copy of said published notice is attached hereto and incorporated herein.

3. The expenditure of public funds pursuant to Ignite Mobile will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities. 4. It is necessary, desirable and in the best interests of the taxpayers and citizens of the City for the City to adopt, carry out and effect Ignite Mobile.

5. The Council does hereby approve, adopt, authorize, direct, ratify and confirm Ignite Mobile in the form and of the content as presented to and considered by the Council.

6. The officers of the City are hereby authorized and directed to take all actions and deliver such applications, agreements, documents, instruments and notices as may be required by law or necessary or desirable to carry out and effect the purposes of this resolution and Ignite Mobile.

7. Any prior actions taken or instruments executed by any officer or employee of the City, or of the City’s agent, in connection with or in furtherance of Ignite Mobile, are hereby ratified and confirmed.

8. This resolution shall take effect immediately and all resolutions, orders, or parts thereof in conflict or inconsistent with any provision herein hereby are, to the extent of such conflict or inconsistency, repealed.

The resolution was read by the City Clerk; whereupon Councilmember Williams moved that the resolution be adopted, which was seconded by Councilmember Gregory.

Councilmember Williams moved to amend the resolution as follows:

A RESOLUTION TO AUTHORIZE AND APPROVE AN EMERGENCY GRANT PROGRAM FOR SMALL BUSINESSES IN RESPONSE TO COVID-19

WHEREAS, due to the coronavirus pandemic the Governor of the State of Alabama, on March 13, 2020, declared a state public health emergency pursuant to the Alabama Emergency Management Act of 1955, as amended; and,

WHEREAS, by Resolution on March 17, 2020, the City Council of the City of Mobile declared that a public health emergency exists in the City of Mobile due to the coronavirus pandemic; and,

WHEREAS, this unprecedented national crisis has caused and will continue to cause drastic negative effects on the national, state and local economies; and,

WHEREAS, the City Council of the City of Mobile recognizes that small businesses within the City of Mobile may not have the financial means to withstand prolonged shutdowns and limitations on normal business operations; and,

WHEREAS, Code of Alabama § 11-44C-58 authorizes emergency appropriations to meet a pressing public need for public expenditures to protect the public health, safety and welfare upon recommendation of the Mayor and, under Code of Alabama § 11-44C-62, the Mayor recommended and the Director of Finance has certified that an unappropriated sum sufficient to meet the appropriation set forth herein is available; and,

WHEREAS, the Attorney General of the State of Alabama has opined that the granting of public funds to private individuals or entities is proper if the City Council determines that the same serves a public purpose; and,

WHEREAS, in Slawson v. Alabama Forestry Comm’n, 631 So.2d 953 (Ala. 1994) the Alabama Supreme Court opined that a public purpose has for its objective the promotion

of public health, safety, morals, security, prosperity, contentment and the general welfare of the community; and,

WHEREAS, the City Council of the City of Mobile wishes to appropriate funding to establish a grant program to be known as the Ignite Mobile Small Business Grant Program ("Ignite Mobile") providing grants to small businesses within the City of Mobile closed by order of the State Health Officer on April 28, 2020, due to Risk of Infection by COVID-19, and meeting certain criteria based on demonstrated and documented need to prevent staff reductions and maintain these businesses, which program will help offset the negative economic effects of the coronavirus crisis on the City of Mobile and its citizens and businesses; and,

WHEREAS, Pursuant to Amendment No. 772 to the Constitution of Alabama of 1901, as amended ("Amendment No. 772"), the City is authorized, upon compliance therewith, to lend its credit to, or grant public funds and things of value in aid of or to any individual, firm, corporation or other business entity, public or private, for the purpose of promoting the economic and industrial development of the City; and,

WHEREAS, the City Council for the City of Mobile determines that the expenditure of public funds to establish the Ignite Mobile program serves a public purpose and will promote the economic development of the municipality by saving jobs and businesses.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA that;

1. The City has published a notice in the newspaper with the largest circulation in the City at least 7 days prior to its public meeting, which notice described in reasonable detail the action proposed to be taken, the public benefits sought to be achieved by the action, and identified each individual, firm, corporation, or other business entities to whom or for whose benefit the City proposes to grant public funds as set forth in Exhibit 1, attached hereto and incorporated herein; and

2. At the time and place identified in said notice, the City Council for the City of Mobile considered said action and hereby finds that the expenditure of public funds in the amount not to exceed Five Hundred Thousand Dollars ($500,000.00) to fund a grant program known as "Ignite Mobile" for small businesses ordered closed by order of the State Health Officer on April 28, 2020, in response to COVID-19 that utilizes the standards and criteria set forth in Exhibit 2. A copy of said published notice is attached hereto and incorporated herein.

3. The expenditure of public funds pursuant to Ignite Mobile will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities.

4. It is necessary, desirable and in the best interests of the taxpayers and citizens of the City for the City to adopt, carry out and effect Ignite Mobile.

5. The Council does hereby approve, adopt, authorize, direct, ratify and confirm Ignite Mobile in the form and of the content as presented to and considered by the Council.

6. The officers of the City are hereby authorized and directed to take all actions and deliver such applications, agreements, documents, instruments and notices as may be required by law or necessary or desirable to carry out and effect the purposes of this resolution and Ignite Mobile.

7. Any prior actions taken or instruments executed by any officer or employee of the City, or of the City's agent, in connection with or in furtherance of Ignite Mobile, are hereby ratified and confirmed.

8. This resolution shall take effect immediately and all resolutions, orders, or parts thereof in conflict or inconsistent with any provision herein hereby are, to the extent of such conflict or inconsistency, repealed.

The Council requests that the Mayor provide a list of approved and disapproved applications, with reasons for any disapprovals.

The move was seconded by Councilmember Rich and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Rich and Gregory
Nays: Daves

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the amendment adopted.

The Presiding Officer called for the vote on the original motion as amended. Following comments from Councilmembers Small, Williams, Richardson, Rich and Daves the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves, Rich and Gregory
Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution adopted as amended.

APPEALS:

The Council considered the appeal of Buzz Jordan, on behalf of Cabana Royale, LLC, 401 Dauphin Street, concerning the Planning Commission's denial of their application for Planning Approval to allow an occupancy load of over 100 in the Downtown Development District (District 2).

Councilmember Manzie moved to hold the appeal over until the regular meeting of May 19, 2020, which motion was seconded by Councilmember Gregory.

The following people spoke in opposition of the appeal:

1. Father Bill Skoneki, 400 Government Street
2. Jean Lankford, 356 Dauphin Street
3. Jerry Speegle (via video conference)
4. Lee Weissinger, 412 Dauphin Street

The following people emailed comments in opposition of the appeal:

1. Elizabeth Stevens, 261 Dauphin Street

The following people spoke in support of the appeal:

1. Buzz Jordan, 401 Dauphin Street
2. Tom Townsend, 401 Dauphin Street
3. Vince Kilborn, 6855 Standford Lane, Montrose, Alabama

The following person emailed comments in support of the appeal:

1. Rebecca R. Williams, 206 State Street
2. Joseph Brennan, 7 N. Dearborn Street
3. Caroline Veillon, 5729 Green Tree Road
4. James Layton, 3287 Crestwood Drive, Semmes, Alabama
5. Ginger Copeland, 915 Church Street
6. Lucy Gafford, 70 N. Joachim Street
7. John Cutts, 1400 Park Road
8. Sheila Teauge, shellbteague@gmail.com
9. Marcus Neto, 920 Dauphin Street
10. Andre Lots & Margo Alderton, 216 St. Francis Street
11. John Serda, P. O. box 118
12. Rich Gambino

13. Sarah Bohnenstiehl, 300 N. Joachim Street
14. Maggie Robertson, 412 Dauphin Street
15. Holly Gardner, planetholly8@gmail.com
16. Leslie Schraeder, lcs.bellingrath@gmail.com
17. Richard Tillman, bamarich47@aol.com
18. Kelly Dorgan, 14 S. Monterey Street
19. Larraine Martin, 6109 Appaloosa Drive
20. Elizabeth Shope, 258-B N. Claiborne Street
21. Evin Bowling, 2307 Old Government
22. Jennifer Miller, 2307 Old Government
23. Matthew Ryan Miller, 2307 Old Government
24. Julie Watson, 853 Dauphin Street
25. Chad Marchand, ccm@delmar-law.com
26. Richard McGill, 7 St. Emanuel Street
27. Andrea Williamson, andraeblake13@gmail.com
28. Brandon T. Shreves, brandon.shreves@yahoo.com
29. Day Peake, 1 Croydon Road
30. Jacon McKenzie, 1 Croydon Road
31. Glen Stephen Jones, Jr., 4113 Springdale Road
32. Alan Blackstock, 4113 Springdale Road
33. Tara Jones, 561 Westwood
34. Tammy Jones Blackstock, 4113 Springdale Road
35. Dallas Baggett, 12925 Dauphin Court, Grand Bay, Alabama
36. Kim Miller, 6425 Magnolia Place Court, S.
37. Stephanie Bradford, 7161 Okatoma Street
38. Dalton Powell, 7 Summer Oaks Drive, Daphne, Alabama
39. Helen Yates, 40 Ridgeview Drive
40. Lewis LeMilam, 6441 Pine Burr Drive, Vancleave, Mississippi
41. Erin Williams, 3552 Pepper Ridge Drive
42. Brittney Pitts, 4950 Government Boulevard
43. Jamaica Malone, 6305 Summer Place Drive, N.
44. Krista Harrell, 2175 Schillinger Road, S.
45. Kelly Barrett, 109 Gilbert Street
46. Angel Green, 3051 Farcott Street
47. Di'Qwuan Patterson, 2605 S. Florida Street
48. Terry Mudge, 157 S. Monterey Street
49. Mary Beth Suatel, 1409 Campbell Street
50. Bobby Lockett, 5123 Marine Street
51. Dain Milliga, 1207 S. Thomas Avenue
52. James Thomasson, 6161 Three Notch Road
53. Alexander Steiner, 6616 Apple Cross Drive, S.
54. Karin Fincher, 2712 S. Fountainbleau
55. Grace Powell, 9863 Evergreen Court
56. Elizabeth Powell, 9863 Evergreen Court
57. Mike Miller, 1905 Sugarwood Court
58. Aisha Drake, 6129 Girby Road
59. Virginia Betbeze, 12 10 Selma Street
60. Jaime Betbeze, 1210 Selma Street
61. Heather Howard, 27108 Wilder Circle East
62. Liz Arnott, 1756 Dauphin Street
63. John Robert Griswold, 1200 Grande Oak Boulevard, Saraland, Alabama
64. Meagan Bunge, 840 Laurie Court
65. Kinson Do, 5480 Helen Drive, Theodore, Alabama
66. Julie Sorenson, Birmingham, Alabama
67. Anita Clarke, 1608 Ridgeland Road, W.
68. Michael Ulrich, 931 Government Street
69. Brad Johnson, Ocean Springs, Mississippi
70. Erin Kilpatrick, 314 b 6th Street, Chickasaw, Alabama
71. Chad O'Rear, 5235 Old Highway 43, Satsuma, Alabama
72. Desiree O'Rear, 5235 Highway 43, Satsuma, Alabama
73. Gwendolyn Dials, 4075 Blackwell Drive
74. Hannah Harris, hanharris12@gmail.com

75. Kelly Kane, 2711 Woodcliff Drive, E.
76. Thomas Ladner, 1799 Kendall Court
77. Diane Garrettson, 3811 DelMonte Court
78. Ashley Maynard, 7 Benedict Place
79. Tommy Johnson, 301 Winfield Drive
80. Vanity Washington, 1799 Kendall Court
81. Kellie Thompson, 2550 Macaria Drive
82. Adam McKay Moore, 4658 Place Circle
83. Tennille Rehm, 2791 S. Sherwood Drive
84. Jeff Jacoby, 2791 S. Sherwood Drive
85. Kaitlin Tidwell, 7015 Granforest Drive
86. Garrick Ogburn, 2306 Dauphin Street
87. Torrean Dixon, P. O. Box 81821
88. Ashton Road, 26857 Augustine Drive, Daphne, Alabama
89. Elizabeth Pond, 26857 Augustine Drive, Daphne, Alabama
90. Sayinka Lankster, 1279 Skywood Drive
91. Teddy Bush, 10922 Sierra Estates Drive, N.
92. Asia Fry, 111 Sherwood Drive
93. Alison Herlik, 2306 Dauphin Street
94. P C Norman, 430 St. Louis Avenue
95. Marston and Jessica Luce, 256 West Street
96. Kristen Moore, 9658 Polo Place Circle
97. Lewis Copeland, 8847 Dawes Lake Road, S.
98. Cathy Copeland, 8847 Dawes Lake Road, S.
99. Renee Lewis, 320 Stanton Road
100. Mary Ann McCoppin, 410 E. Academy Avenue
101. Anna Carlin, 6427 Grelot Road
102. Scott Glenn, 2050 Springhill Avenue
103. Mary Sheffield, 7335 Laurie Court
104. Matthew Glenzer, 6427 Grelot Road
105. Dakota Yars, 5888 Hunter Wood Drive, W.
106. Hannah Tison, 1625 Abbeywood Drive
107. Caroline Tison, 951 Government Street
108. Julius Wall, 951 Government Street
109. Tara Roberts, 36 S. Lafayette Street
110. Emma Diaz, 1057 Pinemont Drive
111. Larissa Graham, 250 Pinehill Drive
112. Nicole, 525 Kensley Avenue, Fairhope, Alabama
113. Claire Cage, 100 Espejo Street
114. Lesley, 122 Silverwood
115. Kyle Ankerson, 159 Border Drive, W.
116. Lauren Sergeant, 2208 Fieldstone Court
117. Thomas McKinney, 702 Xan Avenue, Daphne, Alabama
118. Rebecca Metts, P. O. Box 32, Saraland, Alabama
119. Michael Brumfield, 6826 Smithtown Road
120. Kat Billings, 510 Pierce Street, Saraland, Alabama
121. Victor Tipper, 5700 Grelot Road

The Presiding Officer called for the vote on the appeal and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves, Rich and Gregory
Nays: None

The vote was then announced by City Clerk, whereupon the Presiding Officer declared the appeal held over.

PRESENTATIONS OF PETITIONS AND OTHER COMMUNICATIONS TO THE COUNCIL:

AGENDA ITEMS:

1. Reggie Hill, 1007 Center Street, submitted the following requests:

"Fellow Citizens and Stakeholders of Mobile – Greetings!

Reggie Hill, 1007 Center Street.

"Working with at-risk youth, on a daily basis, I have learned that transparency and consistency are the most important elements – necessary for fulfilling an objective.

Unfortunately, pertaining to the Coronavirus, over the past several weeks, an approach to have detailed dialogue and reliable information has been drastically ignored by the City of Mobile.

Let's begin with our most recent news and work backwards in some fashion.

Last week the Mayor informed the Citizens of Mobile that $500K, from CDBG funds would be used to implement Ignite Mobile. The City Attorney then clarified that these funds would be available to those who operate in the City of Mobile and those who contract with the City. There has been no formal public input from the community – other than questions I have submitted to the Council previously. Surprisingly, after communicating with the Council President, I was informed that the $500K was from the previous FY Reserves, and that funds would only go to those who operate within the City Limits. The President, however, was unable to share with me if there would be a public hearing regarding this matter and if it would take place at Government Plaza.

1). What documentation, from the Neighborhood Development Director or the Administration, has been provided to the City Council officially verify the funding source of Ignite Mobile? And, when will this information be available to the Public?

2). What were the Ignite Mobile funds originally allocated for?

3). What measures, if any, are being taken to ensure that the funds which were transferred to implement Ignite Mobile will be restored for the original usage/allocation?

4). The Mayor, in a YouTube video, thanked the City Council for approving Ignite Mobile. Please clarify what was approved on 5/5/2020, as it relates to the roll out of Ignite Mobile. If Ignite Mobile has already been approved, what then will be the reason for a Public Hearing? What indignation assures the City of Mobile that we acted within State guidelines to utilize this much of taxpayer resources?

Trust me, I get it! All in all, this international experiment has caused our economy to suffer tremendously. Both supremacists and elitists, making decisions together, developed timelines to execute certain endeavors, but failed terribly. As a result, fear of the Public is clashing head on with fiscal ambition of the businessman.

And, let's be clear here. When it comes to overreaching, those in leadership roles who encourage extreme safety precautions such as mass testing for all Citizens; face coverings and gloves in all locations; and selective social distancing, are no different than those who seem to care more about wealth than they do about health. All of it is based on fear!

The Public Safety Director, in an interview with AL.com recently, said "We don't ever want to be put in a positon where we criminalize otherwise law abiding Citizens". He also went on to insist that the Government should work with industry and not against it.
This is the consistency piece that just isn't resonating with me.

5). Will the Public Safety Director commit to investigating any formal complaints, in a timely manner, when a Citizen of Mobile presents evidence that they (the Citizen) were criminalized by the Mobile Police Department unlawfully?

6). Knowing of a business that has been openly punished (fined) by the Public Safety Director, for disobeying the law ordered by the Governor; and knowing that this same business has publicly defied the law again, what action will the City of Mobile take to

ensure that all businesses can operate under the same confidence of penal freedom – when those businesses feel that their livelihood is at stake?

To the best of my knowledge, the Mayor has been given permission to make purchases without the Council approval during the Coronavirus pandemic, hence why tens of thousands of dollars were just thrown away for examinations that don't properly evaluate.

I want to commend the bravery of our Public Services Committee Chair, for voting against 08- 314. With all the confusion being present by the Administration and others, you made an extremely wise decision.

7). Going forward, what oversight measure will be made to ensure that the City Council has planning and negotiating input, not just voting approval, when taxpayer dollars are being used to tackle the Coronavirus – particularly those purchases over $15K.

8). Has any data been collected to verify which specific communities, in the City, have been effected the most by Coronavirus?

Our Finance Committee Chair made an amazing point, this Tuesday, concerning cell phone towers. As the few who have had access to my Public Comments shall recall, I requested that the City inquire about such towers in our communities and the risk that is involved.

9). What shall be done to ensure that the City Council has legal oversight of cell phone tower erection, capability, and impact within the City Limits?

I have several other inquires. However, I will submit those before 5/12/2020.

As I close, I want to remind the Council of the suggestion made by the President: to reconsider how Citizens shall participate going forward. If the City continues to meet remotely, I suggest that Citizens be allowed to participate via Zoom or calling in, just as other Departments within the City have been able to do. Nonetheless, I believe that any written materials submitted by Citizens should be made available online for the Public to view, as well.

I want to commend the Rules Committee Chair for keeping his word to the Public. Unsure to what extent I can expect to be represented by my Councilmember, and observing the lack of concern that the Council President has for Public input in general – it is truly delightful to see an Elected Official place the chamber and just Municipal Government above their own political and ideological justifications.

This week, I pray that the minds of all leaders and those in the forefront will be transformed to make the decisions that are most about the well-being of all people rather than more about the influence of a media appearance. We can achieve sound greatness, here in the City of Mobile. Though, it will never happen until we are transparent and we treat all Citizens as one.

Thank you for the 2 questions that have been answered over the past 6 weeks. This is a formal request to have all submitted concerns addressed directly in writing or during the City Council meeting.

Kindest Regards,
Reggie"

2. Reggie Hill also submitted the following:

"Madam City Clerk,

Good morning! I hope that all is well.

1). How was the Public informed about the Public Hearing regarding "Ignite Mobile".

2). What forms of advertising were used to ensure that all Citizens of the City were able to offer their concerns or suggestions, regarding "Ignite Mobile"?

3). Was it lawful for the City to accept "Ignite Mobile" applications, before it was approved by the City Council?

4). When and how was it communicated that Citizens would be welcome to address the Council, via Public Hearing, at Government Plaza - on today?

5). Were the funds for Ignite Mobile transferred from Neighborhood Development? If not, from where did the funds come?

Kindest Regards,

Reggie”

NON-AGENDA ITEMS:

None.

ORDINANCES BEING INTRODUCED:

ORDINANCE TO AMEND CHAPTER 50 OF THE CITY CODE TO ADD A NEW ARTICLE ENTITLED “MOBILE TOURISM IMPROVEMENT DISTRICT” RELATING TO THE CREATION OF A SELF-HELP BUSINESS DISTRICT. The following ordinance was held over until the regular meeting of May 19, 2020.

ORDINANCE: 50-014-2020

Sponsored by: Mayor Stimpson

AN ORDINANCE TO AMEND CHAPTER 50 OF THE MOBILE CITY CODE ENTITLED “PUBLIC IMPROVEMENTS” TO ADD A NEW ARTICLE IV ENTITLED “MOBILE TOURISM IMPROVEMENT DISTRICT” RELATING TO THE CREATION OF A SELF-HELP BUSINESS IMPROVEMENT DISTRICT TO PROVIDE SUPPLEMENTAL SERVICES WITHIN THE DISTRICT

WHEREAS, the patterns of urban development have had substantial adverse impacts upon business districts that are vital to the economy of the State of Alabama and the City of Mobile; and

WHEREAS, Senate Bill No. 146 was signed into law by the Governor of the State of Alabama on May 3, 2004 (“Enabling Law”); and

WHEREAS, the Enabling Law authorizes the City of Mobile, as a Class 2 municipality, to provide for the creation and maintenance of Self-Help Business Improvement Districts within its boundaries through the adoption of an Ordinance; and

WHEREAS, Senate Bill No. 112 was signed into law by the Governor of the State of Alabama on May 20, 2019, amending the Enabling Law; and

WHEREAS, the amendments to the Enabling Law allows for the creation and maintenance of a Self-Help Business Improvement District for the purpose of providing supplemental, tourism promotional services to businesses and to levy assessments against those businesses benefitting from the tourism promotion services; and

WHEREAS, on March 12, 2020, business owners within the boundaries of the proposed Mobile Tourism Improvement District in excess of the number required by the Enabling Law, as amended, filed a request for the creation of a self-help business improvement district with the City Clerk (“Request”); and

WHEREAS, on March 17, 2020, the City Council made the findings required by Section 11-54B-43 of the Enabling Law and set April 14, 2020 as the date for a public hearing on the adoption of an Ordinance establishing a Self-Help Business Improvement District to be known as the Mobile Tourism Improvement District; and

WHEREAS, on March 19, 2020 notice of the date, time, and place set for the public hearing, together with a description of the geographical area proposed to be included in the Mobile Tourism Improvement District, the proposed Ordinance, and the Mobile Tourism Improvement District Plan was mailed to all owners, as identified in the City's records, of businesses within the proposed Mobile Tourism Improvement District and a copy of the notice was posted in at least three places located within the geographical area proposed to be included in the proposed Mobile Tourism Improvement District as required by Section 11-54B-45 of the Enabling Law; and

WHEREAS, on April 20, 2020 notice of the date, time, and place set for the rescheduled public hearing to take place on May 12, 2020, was mailed to all owners, as identified in the City's records, of businesses within the proposed Mobile Tourism Improvement District and a copy of the notice was posted in at least three places located within the geographical area proposed to be included in the proposed Mobile Tourism Improvement District as required by Section 11-54B-45 of the Enabling Law; and

WHEREAS, the City Council wishes to adopt an Ordinance to designate, establish, and maintain within the geographic area and having application to the class of businesses described in the Request as a Self-Help Business Improvement District to be known as the "Mobile Tourism Improvement District" ("District");

WHEREAS, the City Council determines that adoption of ordinances such as this constitute an essential minimum function of the Council.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Mobile, that in order to establish the District the following Article IV is hereby added to Chapter 50, Mobile City Code (1991) to be titled "Mobile Tourism Improvement District" as follows:

Section 1. Declaration of Public Policy and Purposes.

(a) The designation of the geographic area described in Section 4 of this Ordinance as a Self-Help Business Improvement District is intended to directly benefit assessed lodging businesses within the area by increasing room night sales and revenue therefrom. Mobile Tourism Improvement District activities and improvements will increase overnight tourism and market assessed lodging businesses as tourist, meeting and event destinations, thereby increasing room night sales and revenue therefrom. Increasing overnight tourism in the City of Mobile contributes to the health, prosperity, and welfare of the people of the City of Mobile and, therefore, is an act which is in furtherance of the best interests of the City and its citizens.

(b) The City Council finds that owners of lodging businesses with 40 rooms or more comprising at least 60% of the number of rooms within the district and the owners of at least 50% of the number of businesses with 40 rooms or more located within the proposed MTID have signed and submitted petitions in support of the formation of the MTID. The City Council accepts the petitions and certifies that the petitions have met the requirements of the Enabling Law.

(c) The purpose of this Ordinance is to:

(1) Designate, establish, and maintain the geographic area described in Section 4 of this Ordinance as the Mobile Tourism Improvement District; and

(2) Designate a district management corporation to provide supplemental services within the District; and

(3) Impose a special assessment upon the owners of lodging businesses with 40 rooms or more located within the District to finance the cost of the supplemental services that will be provided by the district management corporation in the District; and

(4) Provide for the submission of certain reports to the City by the district management corporation; and

(5) Provide a sunset provision pursuant to which City Council may continue, modify, or terminate the District; and

(6) Provide an effective date for the provisions of this Ordinance.

Section 2. Definitions.

For purposes of this Ordinance, the following terms shall have the respective meanings ascribed by this Section:

(a) Baseline Services means the level of funding for tourism promotion provided to the Mobile Convention and Visitors Corporation by the City of Mobile as of the date of this Ordinance. The baseline level of funding for tourism promotion services provided by the City shall be a minimum of $2,650,000 for fiscal year ending September 30, 2020. For each of the MTID's subsequent fiscal years following the fiscal year 2019/2020, the baseline level of funding provided by the City shall be the greater of $2,650,000 or 33.5% of the lodging tax receipts received in the previous fiscal year, at the City Lodging Tax Rate of 8%.

(b) Baseline Services Agreement means the contract between the City, the Mobile Convention and Visitors Corporation, and the Corporation setting out the services that will be provided in the District by the City, the Mobile Convention and Visitors Corporation, and the Corporation.

(c) Board of Directors means the board of directors of the Corporation selected in accordance with the District Plan and the Enabling Law.

(d) City means the City of Mobile, Alabama.

(e) City Council means the Mobile City Council.

(f) Corporation means the Mobile Area Lodging Corporation, an Alabama not-for-profit corporation that is designated and authorized by this Ordinance to manage the District as the district management corporation.

(g) District means the Mobile Tourism Improvement District, the area of which is designated by Section 3 and 4 of this Ordinance, and in which a Special Assessment is levied by this Ordinance on the owners of lodging businesses with 40 rooms or more located within the District for the purposes of receiving Supplemental Services.

(h) District Plan means the Mobile Tourism Improvement District District Plan filed in accordance with Section 11-54B-44 of the Enabling Law.

(i) Special Assessment means the amount levied and collected by the City and forwarded to the Corporation for the purposes of financing the costs of Supplemental Services for the District.

(j) Supplemental Services means the programs, services, and improvements to be provided and maintained by the Corporation within the District. The term includes not only the programs, services, and improvements described in the request for the creation of the District filed with the City Clerk on March 12, 2020 but also such additional programs, services, and improvements as the Board of Directors of the Corporation may determine to provide and maintain within the District after the date of adoption of this Ordinance.

Section 3. Establishment of the Mobile Tourism Improvement District.

There is hereby established a District, the geographic boundaries of which are set forth in Section 4 of this Ordinance, to be named the “Mobile Tourism Improvement District”.

Section 4. Geographic Boundaries of the Mobile Tourism Improvement District.

The geographic boundaries of the District include all lodging businesses with 40 rooms or more, existing or in the future, located within the boundaries of the City. The geographic boundaries of the District may also be seen in Appendix 2. The lodging businesses that are liable for the Special Assessment are listed in Appendix 1.

Section 5. Designation of Mobile Area Lodging Corporation.

(a) Designation. The Corporation is hereby designated as the district management corporation for the District. The Corporation is hereby authorized and empowered to receive all Special Assessment revenues collected by the City, less the City’s one percent (1%) collection and administration fee, and to provide Supplemental Services within the District.

(b) Board of Directors. The Corporation shall be managed by a Board of Directors in accordance with the District Plan, the articles of incorporation filed with the District Plan, and the Enabling Law. No amendment of the articles of incorporation or bylaws shall be effective unless approved by the Board of Directors.

(c) Compensation. Board members shall receive no compensation for their services as Directors, but shall be entitled to receive reimbursement for expenses actually incurred in the performance of duties as approved by the Board.

(d) Budget Required. No funds received by the Corporation from Special Assessment shall be expended except in accordance with the budget adopted or amended under the provisions of the District Plan.

(e) Powers. The Corporation may do all things necessary to implement its purposes as described in Section 11-54B-50 of the Enabling Law and in the District Plan.

(f) Eminent Domain. The Corporation shall not have the power of eminent domain.

(g) Facilities Not Deemed Nuisance; Liability. No moveable furniture, structure, facility, or appurtenance, or activity located or permitted in a District shall, by reason of location or use, be deemed a nuisance or unlawful obstruction or condition, notwithstanding any rule or regulation or principal of law pertaining to the use of public streets and highways. Neither the City nor any user acting under permit shall be liable for any injury to person or property, unless the furniture, structure, facility, or use shall be negligently constructed, maintained, or operated.

(h) Public Meetings. After designation of the District, the Corporation shall hold, at least annually, a general and public meeting appropriately advertised in the District at a place convenient to persons concerned with the operation of the District.

(i) Written Comments. The Corporation shall receive written suggestions from businesses in the District at any time.

(j) City Representatives May Attend Meetings. One or more representatives designated by the Mayor and the City Council shall be authorized to attend and participate in regular and called meetings of the Board of Directors of the Corporation; provided, however, that such representatives shall not vote on any matters considered by such Board.

(k) Dissolution. Upon dissolution of the Corporation or a withdrawal of the Corporation’s designation as the district management corporation for the District, the Board of Directors of the Corporation shall, after paying or making provision for the payment of all of the liabilities of the Corporation, transfer and assign all interests in and

title to funds held by or for the Corporation and property of the Corporation to the successor district management corporation for the District; or, if no such successor corporation exists, to the City for use in funding such programs as the Board of Directors of the Corporation shall designate.

Section 6. Imposition of Special Assessment; Exemptions.

(a) Levy. There is hereby levied a Special Assessment upon all owners of lodging businesses with 40 rooms or more located within the District. The levy shall be in effect on and after July 1, 2020 subject to the sunset provisions in Section 13 of this Ordinance. The amount of the Special Assessment, and the means and methods of its collection, shall be as provided for in the District Plan. For the first, abbreviated five-year term of the District, to last from July 1, 2020 through May 31, 2025, the rate of the Special Assessment shall be capped at, and shall not exceed, the amount stated in the District Plan.

(b) Businesses Subject to Special Assessment. A listing by parcel number, street address, and lot and block number of all lodging businesses with 40 rooms or more located in the District, as shown by the Mobile County Tax Records as of the date of this Ordinance, is set out in the attached Appendix 1.

(c) Exemption for Residential Properties. The District shall not assess properties which are determined to be single-family, owner-occupied residential properties.

(d) Exemptions. Based on the benefit received, the following stays will not be assessed:

(1) A continuous stay of 31 days or more; provided, that the first 30 days will be assessed;

(2) Stays at camps, conference centers, or similar facilities operated by nonprofit organizations primarily for the benefit of, and in connection with, recreational or educational programs for children, students, or members or guests of other nonprofit organizations during any calendar year;

(3) Stays at privately operated camps, conference centers, or similar facilities that provide lodging and recreational or educational programs exclusively for the benefit of children, students, or members or guests of nonprofit organizations during any calendar year;

(4) Stays at corporate housing facilities;

(5) Stays at campgrounds; and

(6) Complimentary room stays provided by the lodging business owner to a guest.

Section 7. Default in Payment of Assessments.

(a) Default. The obligation to pay any Special Assessment due shall be in default if such Special Assessment is not paid on or before the due date for such payment.

(b) Corporation to Reimburse City for Collection Costs. The Corporation shall reimburse the City for any costs associated with collecting unpaid Special Assessments. If sums in excess of the delinquent District Special Assessment are sought to be recovered in the same collection action by the City, the Corporation shall bear its pro rata share of such collection costs.

(c) Penalties and Interest. Assessed lodging businesses which are delinquent in paying the Special Assessment shall be responsible for paying:

(1) Failure to Timely File. Any lodging business that files a return after the due date is subject to a penalty equal to the greater of ten percent (10%) of the Special Assessment required to be paid or $50.00.

(2) Failure to Timely Pay. Any lodging business that submits a payment after the due date is subject to a penalty of ten percent (10%) of the delinquent Special Assessment.

(3) Interest. In addition to other penalties, if a lodging business fails to timely pay the City any Special Assessment due, there shall be added as interest one percent (1%) of the total amount due if the delinquency is not for more than one month, with an additional one percent (1%) for each additional month or fraction thereof under which the delinquency continues.

(4) Penalties Merged with Special Assessment. Every penalty imposed as such interest as accrues shall become part of the Special Assessment herein required to be paid.

Section 8. Licenses and Permits.

To the extent the operations of the Corporation require permits, licenses, or other approvals, the fees, costs, and expenses associated with obtaining such license, permits, or approvals are waived.

Section 9. Annual Reports and Audits.

(a) Within ninety (90) days after the close of its fiscal year, the Corporation shall make an annual report of its activities during such year to the City Council. The annual report shall include, at a minimum:

(1) A financial statement for the preceding year, including a balance sheet, statement of income and loss and such other information as is reasonably necessary to reflect the Corporation's actual performance, certified by the Corporation's treasurer; and

(2) The budget for the current fiscal year.

(b) A copy of each annual report shall be sent to the Mayor, the City Council, and to all lodging business owners of the District by first class mail or by personal delivery.

(c) Within ninety (90) days after the close of the Corporation's fiscal year, the Corporation shall cause an annual audit of its books, accounts, and financial transactions to be made by a certified public accountant. The Corporation's annual audit shall be completed and filed with the City Council within four (4) months after the close of the Corporation's fiscal year. Certified copies of the audit shall also be filed with the Mayor and the finance director of the City.

Section 10. Execution of Baseline Services Agreement.

The Mayor and the City Clerk are hereby authorized and directed to execute and attest, respectively, for and on behalf of the City of Mobile, a Baseline Services Agreement with the Corporation and the Mobile Convention and Visitors Corporation regarding the level of services to be maintained by the City within the District and the Supplemental Services which will be provided by the Corporation, as outlined in the contract presented herewith and made a part hereof as though set forth in full. The Baseline Services Agreement shall provide that the City shall continue to provide the same amount of funding for tourism promotion to the Mobile Convention and Visitors Corporation as was agreed upon prior to the creation thereof. The Baseline Services Agreement shall also provide that all costs of the Supplemental Services provided by the Corporation in the District shall be financed through the levy by the City of the District Special Assessment on the owners of lodging businesses with 40 rooms or more located within the geographical area of the District, and such other revenue as the Corporation may receive.

Section 11. Police Powers not Waived; etc.

(a) Notwithstanding the capital improvements to be provided by the Corporation in the District, the City shall retain its police powers and other rights and powers relating to any

streets or parts thereof constituting or included in the District, and no action shall be interpreted to construed to be a vacation, in whole or in part, of any municipal street or part thereof, it being intended that the establishment of the District pursuant to this Ordinance is a matter of regulation only.

(b) The Corporation shall have no power or authority to pledge or mortgage any assets or property owned by the City as collateral for any loan, and the Corporation shall have no power or authority to do any act that would create or cause a lien or encumbrance to be place on assets or property owned by the City; and provided further that the good faith and credit of the City shall not be pledged as collateral for any such loan, the City shall have no obligation to repay any such loans, and such loans shall not constitute a general obligation or indebtedness of the City.

(c) All construction and maintenance work shall be performed in accordance with all applicable federal, state, and City requirements, code, and ordinances, including, but not limited to the “Mobile Rights of Way Construction and Administration Ordinance”, Chapter 57, Mobile City Code.

(d) Nothing in this Ordinance shall affect or impair the City’s control and jurisdiction over all property, streets, sidewalks, and public rights-of-way within the District. The powers and authority now residing with, or hereafter granted to the City, and all powers and authority herein granted shall be exercised by the Corporation in accordance with all applicable federal, state, and City requirements, codes, and ordinances.

(e) The Corporation shall have no authority to permit or authorize any structure, facility, fixture, or appurtenance to be built or located in on upon any public street, road, or right-of-way that blocks, impedes, or interferes with the use or enjoyment of such street, road, or right-of-way. This prohibition is not intended to, and it shall not apply to, temporary and moveable fixtures such as tents or stands that are located on the streets, roads, and rights-of-way during special events.

Section 12. Amendment of Ordinance

The provisions of this Ordinance may be amended upon the written request of a representative group of the owners of lodging businesses, with 40 rooms or more, located within the District. Such request shall specify the content of the desired amendment (or amendments). Such requests must also include the signatures of the owners of lodging businesses in the District, with 40 rooms or more, representing at least 60% of the annual assessment and the owners of at least 50% of the number of lodging businesses, with 40 rooms or more, in the District.

Section 13. Sunset Provision

(a) Within ninety (90) days after the adoption and approval of the fifth annual budget for the District, the City Council shall set a hearing to determine whether the District should be continued, modified, or terminated. After said hearing, the City Council may vote to continue, modify, or terminate the District.

(b) At least twenty (20) days before the hearing, notice of the date, place, and time of such hearing shall be posted in a least three (3) places within the District and mailed, along with a new District Plan, to the owner of each lodging business, with 40 rooms or more, who paid assessments to the District during the previous year as certified by the collector of such assessments. The new District Plan shall contain all of the following items:

(1) A description of the Supplemental Services to be provided in the District.

(2) A budget outlining the annual cost of the Supplemental Services described in subdivision (1).

(3) A description of the method which will be used to determine the amount of the Special Assessment to be levied on the owners of the lodging businesses located within the District to finance the Supplemental Services described in subdivision (1).

(4) The number of years, not to exceed five years, that the Special Assessments described in subdivisions (3), will be levied.

(5) Copies of the articles of incorporation, bylaws, and any amendments thereto, of the Corporation designated by the District Plan to provide the Supplemental Services to the District.

(c) At this hearing, the District shall be terminated if the City Council is presented a petition objecting to the continuation of the District that is signed by the owners of lodging businesses, with 40 rooms or more, representing 60% of the proposed annual assessment, located within the District and the owners of at least 50% of the number of lodging businesses with 40 rooms or more, located within the District. The effective date of termination shall be at the end of the fiscal year next following the hearing.

BE IT FURTHER ORDAINED THAT this Ordinance shall be effect thirty (30) days from the date of its adoption as required by the Enabling Law; provided, however, that if the owners of lodging businesses, with 40 rooms or more, representing 60% of the proposed annual assessment located within the District, and the owners of at least 50% of the number of lodging businesses, with 40 rooms or more, located within the District, file written objections to the establishment of the District with the City Clerk of the City of Mobile, the provisions of this Ordinance shall be null and void and no District shall be created.

ANNOUNCEMENTS:

Councilmember Rich thanked the Mayor and Administration for establishing “Ignite Mobile.”

Councilmember Rich noted that she sent a letter to James DeLapp, Executive Director of Public Works, regarding the Pay-Go Program.

Councilmember Gregory announced that Feeding the Gulf Coast recently distributed 10,000 tons of food at Friendship Missionary Baptist Church and will hold another food distribution at the Hillsdale Community Center on May 23, 2020.

Councilmember Gregory stated that the Mobile Public Library will begin curb-side pick-up on May 13, 2020.

Councilmember Richardson stated that he was honored to have participated in Hazel Wiggins’ funeral.

Councilmember Richardson expressed his concern for the lack of Personal Protection Equipment being used at local businesses.

Councilmember Small reminded residents of the Oakdale community that they will be invited to the groundbreaking ceremony for the Baltimore Street repairs project.

Councilmember Manzie stated he is hopeful that Feeding the Gulf Coast will begin food distributions in district two within the next week.

Councilmember Manzie urged businesses and their patrons to exercise common sense with regard to the re-opening of businesses.

Councilmember Richardson moved to adjourn the meeting, which move was seconded by Councilmember Small and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves, Rich and Gregory
Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the regular meeting adjourned at approximately 12:55 p.m.

Adopted: May 19, 2020

_____
COUNCIL VICE PRESIDENT

_____
CITY CLERK