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# STORMWATER ORDINANCE

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***Stormwater Ordinance, DeSoto County***

**ORDINANCE NO.** \_\_\_\_\_

**AN ORDINANCE ESTABLISHING STORMWATER CONTROLS AND MANAGEMENT PRACTICES FOR DESOTO COUNTY, MISSISSIPPI.**

WHEREAS, uncontrolled Stormwater drainage and discharge may have a significant adverse impact on the health, safety and general welfare of DeSoto County and the quality of life of its citizens by carrying Pollutants into the receiving waters; and WHEREAS, DeSoto County is required by Federal law and regulation, particularly Title 33 United States Code (U.S.C.), and 40 Code of Federal Regulations (CFR) Chapter I, Part 122.32 through 122.35, to obtain a National Pollutant Discharge Elimination System (NPDES) Permit from the Mississippi Department of Environment Quality for Stormwater discharges from the DeSoto County Separate Storm Sewer System, hereafter referred to as DeSoto County (MS4).

WHEREAS, the NPDES Permit requires DeSoto County to impose controls to reduce the discharge of Pollutants in Stormwater to the maximum extent practicable using management practices, control techniques and system design and engineering methods, and such other provisions which are determined to be appropriate for the control of such Pollutants.

THEREFORE, BE IT NOW ORDAINED BY THE DESOTO COUNTY BOARD OF SUPERVISORS that this Stormwater Ordinance for DeSoto County, is established and reads as follows:

**STORMWATER ORDINANCE**

**CHAPTER 1: GENERAL PROVISIONS**

**Section 1-1: Introduction / Purpose**

The purpose of this Ordinance is to establish minimum Stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within this jurisdiction. This Ordinance seeks to meet that purpose through the following objectives:

1. Minimize increases in Stormwater runoff from any development in order to reduce flooding, siltation and stream bank erosion and maintain the integrity of stream channels.
2. Minimize increases in nonpoint source pollution caused by Stormwater runoff from development that would otherwise degrade local water quality.

3. Minimize the total annual volume of surface water runoff that flows from any specific Site during and following development to not exceed the pre-development hydrologic regime to the maximum extent practicable.
4. Reduce Stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through Stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.
5. To regulate the contribution of Pollutants to the municipal separate storm sewer system (MS4) by Stormwater discharges by any user.
6. To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system.
7. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Ordinance.
8. Enable DeSoto County to comply with the NPDES Permit and applicable regulations (at 40 CFR 122.32-35) for Stormwater discharges.

**Section 1-2: Compatibility with Other Permit and Ordinance Requirements**

All other ordinances and parts of other ordinances inconsistent with any part of this Ordinance are hereby repealed to the extent of such inconsistency or conflict. This Ordinance is not intended to interfere with, abrogate, or annul any other rule or regulation, statute, or other provision of law. The requirements of this Ordinance should be considered minimum requirements, and where any provision of this Ordinance imposes restrictions different from those imposed by any other, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

**Section 1-3: Severability**

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this Ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this Ordinance.

**Section 1-4. Responsibility for Administration.**

DeSoto County shall administer, implement, and enforce the provisions of this Ordinance and may establish an enforcement department to carry forth these functions. Any powers granted or duties imposed upon DeSoto County may be delegated, in writing, by the Board of Supervisors of DeSoto County to the established enforcement department (hereinafter AEA) acting in the beneficial interest of or in the employ of DeSoto County.

**Section 1-5: Enactment**

This Ordinance shall take effect pursuant to (M.C.A. 19-3-40) for DeSoto County 30 days after the date of its passage.

**Section 1-6: Development of a Stormwater Design Manual**

DeSoto County shall furnish additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements of this Ordinance in the form of a Stormwater Design Manual.

This manual will include a list of acceptable Stormwater treatment practices, including the specific design criteria for each Stormwater practice. The manual may be annually updated and expanded, at the discretion of DeSoto County, based on improvements in engineering, science, monitoring and local maintenance 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.

**Section 1-7: Definitions**

For the purpose of this Ordinance, unless specifically defined below, words or phrases shall be interpreted so as to give them the meaning they have in common usage and to give this article it's most effective application. Words in the singular shall include the plural, and words in the plural shall include the singular. Words used in the present tense shall include the future tense. The word "shall" connotes mandatory and not discretionary; the word "may" is permissive.

Accelerated Erosion: 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.

Accidental Discharges: a discharge prohibited by this Ordinance into DeSoto County MS4 that occurs by chance and without planning or consideration prior to occurrence.

Applicant: a property owner or agent of a property owner who has filed an application for a Stormwater management permit.

Authorized Enforcement Agency or AEA: employees or designees of DeSoto County designated to enforce this Ordinance.

Best Management Practices or BMPs: schedules of activities, a prohibition of practices, maintenance procedures and other management practices to prevent or reduce the pollution of Stormwater runoff. BMPs also include treatment requirements, operating procedures, and practices to control Site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

Building: any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

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

Clean Water Act or the Act: the Federal Water Pollution Control Act, as amended, codified at 33 U.S.C. 1251 et. seq.

Clearing: Any activity that removes the vegetative surface cover from land.

Commercial: property devoted in whole or part to commerce, that is, the exchange and buying and selling of commodities or services.

Construction Activity: any clearing, grading, excavating, or equipment usage that will result in the disturbance of the land surface and is subject to NPDES construction permits. These include construction projects resulting in land disturbances of 1 acre or more or projects less than 1 acre that are part of a larger common plan of development as required by 40 CFR 122. The term shall not include:

- Such minor construction activities as home gardens and individual home landscaping, home repairs, home maintenance work and other related activities that result in minor soil erosion;
- Individual service and sewer connections for single or two family residences;
- Agricultural practices involving the establishment, cultivation or harvesting of products of the field or orchard, preparing and planting of pasture land, forestry land management practices including harvesting, farm ponds, dairy operations, and livestock and poultry management practices and the construction of farm buildings;
- Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture;
- Installation, maintenance, and repair of any underground public utility line when such activity occurs in an existing hard surface road, street or sidewalk, provided the activity is confined to the area of the road, street or sidewalk that is hard surfaced and a street, curb, gutter or sidewalk permit has been obtained;

Dedication: the deliberate appropriation of property by its owner for general public use.

Detention: 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: 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: a person who undertakes land disturbance activities.

Drainage Easement: a legal right granted by a landowner to a grantee allowing the use of private land for Stormwater management purposes.

Drainage Way: Any channel that conveys surface runoff through a construction activity or land disturbance activity Site.

Erosion Control: Measures that prevent erosion.

Erosion and Sediment Control Plan: a plan that is designed to minimize the accelerated erosion and sediment runoff at a construction activity or land disturbance activity Site.

Fee in Lieu: a payment of money in place of meeting all or part of the Stormwater performance standards required by this ordinance.

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

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

Contaminated Property: an area where land use or activities generate highly contaminated runoff, with concentrations of Pollutants in excess of those typically found in Stormwater.

Hydrologic Soil Group (HSG): a Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from A soils, with high permeability and little runoff production, to D soils, which have low permeability rates and produce much more runoff.

Illegal Discharge. Any direct or indirect non-Stormwater discharge to the Storm Drain System, except as exempted in this Ordinance.

Illicit Connections. An illicit connection is defined as either of the following:  
Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the Storm Drain System including but not limited to any conveyances which allow any non-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.

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

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

Industrial Facility: a business engaged in industrial production or service, that is, a business characterized by manufacturing or productive enterprises or a related service business.

Industrial Stormwater Permit: A National Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries that regulates the pollutant levels associated with industrial Stormwater discharges or specifies on-Site pollution control strategies.

Infiltration: the process of percolating Stormwater into the subsoil.

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

Institutional: an established organization, especially of a public or charitable nature.

Junk motor vehicle: for the purpose of this ordinance only, shall mean any vehicle which shall include by way of example but not be limited to the following vehicle types: Automobiles, construction equipment, motorcycles, and trucks which meet all of the following requirements: three years old or older; extensively damaged, such damage including but not limited to any of the following: A broken window or windshield or missing wheels, engine, or transmission; apparently inoperable; without a valid current registration; and has a fair market value equivalent only to the value of the scrap in it

Jurisdictional Wetland: areas inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include swamps, marshes, bogs, and similar areas.

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

Land owner: the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

Multi-Family Residential: an apartment building or other residential structure built for three or more units or lots under common ownership, and condominiums of three or more units.

MS4: Municipal Separate Storm Sewer System. This means DeSoto County separate Stormwater system both natural and manmade as may be subject to the NPDES Storm Water Permit for DeSoto County.

National Pollutant Discharge Elimination System or NPDES Permit: a permit issued pursuant to 33 U.S.C. Chapter 26 Water Pollution Prevention and Control, Subchapter IV Permits and Licenses, Section 1342 that authorizes the discharge of Pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Nonpoint Source Pollution: pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, Pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

Non-Stormwater Discharge: any discharge to the Storm Drain System that is not composed entirely of Stormwater.

Notice of Intent or N.O.I.: a written notice by the discharger to the Mississippi Department of Environmental Quality that a person wishes his discharge to be authorized under a general permit authorized by state law or regulation.

Off-Site Facility: a Stormwater management measure located outside the subject property boundary described in the permit application for land development activity.

On-Site Facility: a Stormwater management measure located within the subject property boundary described in the permit application for land development activity.

Perimeter Control: A barrier that prevents sediment from leaving a Site either by filtering sediment-laden runoff, or diverting it to a sediment trap or basin.

Person: any individual, partnership, co-partnership, firm company, trust estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by context.

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

Pollutant: Anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or

other discarded or abandoned objects, ordinances, and accumulations, so that 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.

Pollution Prevention Plans: a written Site-specific plan to eliminate or reduce and control the pollution of Stormwater through designed facilities, natural or constructed, and best management practices.

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

Private Property: any building, lot, parcel of land, or portion of land whether improved or unimproved which does not belong to DeSoto County.

Redevelopment: any construction, alteration or improvement exceeding 43,560 square feet in areas where existing land use is high density commercial, industrial, institutional or multi-family residential.

Sediment Control: Measures that prevent eroded sediment from leaving the Site.

Significant Spills: Releases of oil or hazardous substances in excess of reportable quantities under Section 311 of the Clean Water Act (at 40 CFR 110.10 and CFR 117.21) or section 102 of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), (at CFR 302.4).

Site: A parcel of land, or a contiguous combination thereof, where construction or disturbance activity is performed as a single unified operation.

Stabilization: The use of practices that prevent exposed soil from eroding.

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

Stop Work Order: an order issued which requires that all construction activity on a Site be stopped.

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

Stormwater or Storm Water: refers to water induced or created from precipitation whether rain, snow or ice and either stored, collected, detained, absorbed, or discharged.

Stormwater Management: the use of structural or non-structural practices that are designed to reduce Stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.

Stormwater Pollution Prevention Plan (SWPPP): 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: a Stormwater management practice designed for an existing 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: flow on the surface of the ground, resulting from precipitation.

Stormwater Treatment Practices (STPs): 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.

Toxic Pollutant: any pollutant or combination of Pollutants listed as toxic in 40 CFR Part 401 promulgated by the Administrator of the Environmental Protection Agency under the provisions of 33 U.S.C. 1317.

Variance: The modifications of the minimum Stormwater management requirements contained in this Ordinance for specific circumstances where strict adherence of the requirement would result in unnecessary hardship and not fulfill the intent of this Ordinance.

Wastewater: any water or other liquid, other than uncontaminated Stormwater, discharged from a facility.

Water Quality: characteristics that are related to the physical, chemical, biological, and/or radiological integrity of Stormwater.

Watercourse: a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

Waterway A channel that directs surface runoff to a Watercourse, or to the public storm drain.

Waterway Buffer: an area separating a waterway or body of water from buildings and/or structures. Typically, buffers are maintained in a “natural” or vegetative state providing environmental and aesthetic benefits.

## **CHAPTER 2: ILLICIT DISCHARGES AND CONNECTIONS**

### **Section 2-1. Introduction**

The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of DeSoto County through the regulation of non-storm water discharges to the Storm Drainage System to the maximum extent practicable as required by federal and state law. This chapter establishes methods for controlling the introduction of Pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

### **Section 2-2. Applicability.**

This chapter shall apply to all water entering the Storm Drain System generated on any developed and undeveloped lands unless explicitly exempted by DeSoto County.

### **Section 2-3. Ultimate Responsibility**

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

### **Section 2-4. Discharge Prohibitions.**

#### **2-4.1 Prohibition of Illegal Discharges**

No person shall discharge or cause to be discharged into DeSoto County Storm Drain System or Watercourses any materials, including but not limited to Pollutants or contaminants or waters containing any Pollutants that cause or contribute to a violation of applicable water quality standards, other than Stormwater. Contaminants include, but are not limited to, the following: trash or debris, construction materials; petroleum products (including but not limited to, oil, gasoline, grease, fuel oil, or hydraulic fluids); antifreeze and other automotive products; metals (in either particulate or dissolved form); flammable or explosive materials, radioactive material; batteries (including but not limited to, lead acid automobile batteries, alkaline batteries, lithium batteries, or mercury batteries), acids; alkalis ( or bases), paints, stains, resins; lacquers (or varnishes); degreasers (and/or solvents), drain cleaners, pesticides, herbicides, fertilizers, steam cleaning wastes, soaps, detergents, ammonia, chlorine; bromine and other disinfectants, heated water; animal waste from commercial animal or feeder lot operations; leaking sanitary sewers and connections; recreational vehicle waste, animal carcasses, food

wastes, medical wastes, collected lawn clippings, leaves, branches; bark and other fibrous materials; collected silt, sediment, or gravel; dyes (except as noted below); chemicals not normally found in uncontaminated water; any hazardous material or waste not listed above; washing of fresh concrete for cleaning and/or finishing purposes or to expose aggregates; junk motor vehicles, and leaking solid waste disposal containers.

The commencement, conduct or continuance of any illegal discharge to the Storm Drain System is prohibited except as described as follows:

1. The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, uncontaminated ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, swimming pools, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, fire fighting activities, and any other water source not containing Pollutants.
2. Discharges specified in writing by the AEA as being necessary to protect public health and safety.
3. Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.
4. The prohibition shall not apply to any non-Stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the Storm Drain System.

#### **2-4.2 Prohibition of Illicit Connections**

The construction, use, maintenance or continued existence of illicit connections to the Storm Drain System is 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.

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

### **Section 2-5. Suspension of MS4 Access**

#### **2-5.1 Suspension due to Illicit Discharges in Emergency Situations**

The AEA may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of Persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the AEA may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to Persons.

**2-5.2 Suspension due to the Detection of Illicit Discharge**

Any Person discharging to the MS4 in violation of this Ordinance may have his MS4 access terminated if such termination would abate or reduce an illicit discharge. The AEA will notify a violator of the proposed termination of its MS4 access. The violator may petition the AEA for a reconsideration and hearing.

A Person commits an offense if the Person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the AEA.

**Section 2-6. Requirement to Prevent, Control, and Reduce Stormwater Pollutants by the use of Best Management Practices.**

AEA will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of Stormwater, the Storm Drain System, or waters of the U.S. The owner or operator of a Commercial or Industrial establishment shall provide, at his own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the Storm Drain System or Watercourses through the use of these structural and non-structural BMPs. Further, any Person responsible for a property or premise, which is, or may be, the source of an Illicit Discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of Pollutants to the MS4.

**Section 2-7. Watercourse Protection.**

Every person owning property through which a Watercourse passes shall keep and maintain that part of the Watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the Watercourse. In addition, the owner shall maintain existing privately owned structures within or adjacent to a Watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the Watercourse.

**Section 2-8. Notification of Spills, Illicit Discharges or Connection.**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in Illicit Discharges or Pollutants discharging into Stormwater, the Storm Drain System, or water of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the AEA in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the AEA within three business days

of the phone notice. If the discharge of prohibited materials emanates from a Commercial or Industrial establishment, the owner or operator of such establishment shall also retain an on-Site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

## **CHAPTER 3:STORMWATER MANAGEMENT FOR LAND DEVELOPMENT**

### **Section 3-1. Introduction**

Land development projects and associated increases in impervious cover alter the hydrologic response of local watersheds and increase Stormwater runoff rates and volumes. This Stormwater runoff contributes to increased quantities of water-borne Pollutants, flooding, stream channel erosion, and sediment transport and deposition. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of Stormwater runoff from development Sites. Regulation of Stormwater runoff discharges from land disturbance activity and construction activity Sites is in the public interest and will prevent threats to public health and safety. Therefore, DeSoto County establishes this set of water quality and quantity policies applicable to all surface waters to provide reasonable guidance for the regulation of Stormwater runoff for the purpose of protecting local water resources from degradation.

### **Section 3-2. Applicability**

This Ordinance shall be applicable to all subdivision or Site plan applications, unless eligible for an exemption or granted a waiver by the AEA under the specifications of Section 3-3 of this Ordinance. This Ordinance also applies to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development that meets the following applicability criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules.

To prevent the adverse impacts of Stormwater runoff, the AEA has developed a set of performance standards that must be met at new development Sites or modifications to existing Sites. These standards apply to any Land Disturbing Activity or Construction Activity disturbing 1 or more acre of land. The following activities may be exempt from these Stormwater performance criteria:

1. Any logging and agricultural activity which is consistent with an approved soil conservation plan or a timber management plan prepared or approved by the (Soil and Water Conservation District) as applicable.
2. Additions or modifications to existing single family structures.
3. Developments that do not disturb more than 1 acre of land, provided they are not part of a larger common development plan;
4. Repairs to any Stormwater treatment practice deemed necessary by the AEA.

When a Site development plan is submitted that qualifies as a redevelopment project as defined in this Ordinance, decisions on permitting and on-Site Stormwater requirements shall be governed by special Stormwater sizing criteria found in the Stormwater Design Manual. This criteria is dependent on the amount of impervious area created by the redevelopment and its impact on water quality. Final authorization of all redevelopment projects will be determined after a review by the AEA.

### **Section 3-3. Waivers to Stormwater Management Requirements**

#### **3-3.1. Waivers for Providing Stormwater Management**

All applicants shall provide for Stormwater Management, unless they file a written request to waive this requirement. Requests to waive the Stormwater Management Plan requirements shall be submitted to the AEA for approval.

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 of the following conditions applies:

1. It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this Ordinance.
2. Alternative minimum requirements for on-Site management of Stormwater discharges have been established in a Stormwater management plan that has been approved by the AEA and that is required to be implemented by local ordinance.
3. Provisions are made to manage Stormwater by an off-Site facility. The off-Site facility is required to be in place, to be designed 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 has a legally obligated entity responsible for long-term operation and maintenance of the Stormwater practice.
4. Non-structural practices are provided that reduce the generation of Stormwater from the Site, the size and cost of Stormwater storage and provide partial removal of many Pollutants are to be used at the Site. These non-structural practices are explained in detail in the Stormwater Design Manual and the amount of credit available for using such practices shall be determined by the AEA.

In instances where one of the conditions above applies, the AEA may grant a waiver from strict compliance with Stormwater Management provisions that are not achievable, provided that acceptable mitigation measures are provided. However, to be eligible for a variance, the applicant must demonstrate to the satisfaction of the AEA that the immediately downstream waterways will not be subject to:

1. Deterioration of existing culverts, bridges, dams, and other structures;
2. Deterioration of biological functions or habitat;
3. Accelerated stream bank or streambed erosion or siltation;
4. Increased threat of flood damage to public health, life and property.

Furthermore, where compliance with minimum requirements for Stormwater Management is waived, the applicant will satisfy the minimum requirements by meeting

one of the mitigation measures selected by the AEA. Mitigation measures may include, but are not limited to, 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.
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 Ordinance.
3. Monetary contributions (Fee-in-Lieu) to fund Stormwater Management related studies including regional wetland delineation studies, stream-monitoring studies for water quality and macro invertebrates, stream flow monitoring, and threatened and endangered species studies.

If the AEA decides to grant an applicant a waiver of Stormwater Management Requirements, this in no way relieves the applicant from preventing illicit discharges. Therefore, the applicant shall be liable to comply with all federal and state regulations regarding illicit discharges.

### **3-3.2. Fee in Lieu of Stormwater Management Practices.**

Where the AEA waives all or part of the minimum Stormwater Management requirements, or where the waiver is based on the provision of adequate Stormwater facilities provided downstream of the proposed development, the applicant shall be required to pay a fee in an amount as determined by the AEA.

When an applicant obtains a waiver of the required Stormwater Management, the monetary contribution required shall be in accordance with a fee schedule (unless the developer and the Stormwater authority agree on a greater alternate contribution) established by the AEA, and based on the cubic feet of storage required for Stormwater Management of the development in question. All of the monetary contributions shall be made by the developer prior to the issuance of any building permit for the development.

### **3-3.3. Dedication of land**

In lieu of a monetary contribution, an applicant may obtain a waiver of the required Stormwater Management by entering into an agreement with the AEA for the granting of an easement or the dedication of land by the applicant, to be used for the construction of an off-Site Stormwater Management facility. The agreement shall be entered into by the applicant and the AEA prior to the recording of plats or, if no record plat is required, prior to the issuance of the building permit.

## **Section 3-4. General Performance Criteria for Stormwater Management**

Unless judged by the AEA to be exempt or granted a waiver, the following performance criteria shall be addressed for Stormwater Management at all Sites:

1. All Site designs shall establish Stormwater Management Practices to control the peak flow rates of Stormwater discharge associated with specified design storms and reduce the generation of Stormwater. These practices should seek to utilize pervious areas for Stormwater treatment and to infiltrate Stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.
2. Annual groundwater recharge rates shall be maintained, by promoting infiltration through the use of structural and non-structural methods. At a minimum, annual recharge from the post development Site shall mimic the annual recharge from pre-development Site conditions.
3. To protect stream channels from degradation, a specific channel protection criteria shall be provided as prescribed in the Stormwater Design Manual.
4. Stormwater discharges to critical areas with sensitive resources (i.e., swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain Stormwater Management Practices.
5. Certain Industrial Sites are required to prepare and implement a Stormwater Pollution Prevention Plan (SWPPP), and shall file a Notice of Intent (NOI) under the provisions of the National Pollutant Discharge Elimination System (NPDES) general permit. The SWPPP requirement applies to both existing and new Industrial Sites.
6. Stormwater discharges from land uses or activities with higher potential Pollutant loadings, known as “contaminated properties”, may require the use of specific structural STPs and Pollution prevention practices.
7. Prior to design, applicants are required to consult with the AEA to determine if they are subject to additional Stormwater design requirements.
8. The calculations for determining peak flows as found in the Stormwater Design Manual shall be used for sizing all Stormwater Management Practices.

**Section 3-5. Basic Stormwater Management Design Criteria**

**3-5.1. Minimum Control Requirements**

All Stormwater Management Practices will be designed so that the specific storm frequency storage volumes (e.g., recharge, water quality, channel protection, 25 year, 100 year) as identified in the current Stormwater Design Manual are met, unless the AEA grants the applicant a waiver or the applicant is exempt from such requirements.

In addition, if hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the AEA reserves the right to impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

**3-5.2 Site Design Feasibility**

Stormwater Management Practices for a Site shall be chosen based on the physical conditions of the Site. Among the factors that should be considered:

- Topography

- Maximum Drainage Area
- Depth to Water Table
- Soils
- Slopes
- Terrain
- Head
- Location in relation to environmentally sensitive features or ultra-urban areas

Applicants shall consult the Stormwater Design Manual for guidance on the factors that determine Site design feasibility when selecting a Stormwater Management Practice.

### **3-5.3. Conveyance Issues**

All Stormwater Management Practices shall be designed to convey Stormwater to allow for the maximum removal of Pollutants and reduction in flow velocities. This shall include, but not be limited to:

- Maximizing of flow paths from inflow points to outflow points
- Protection of inlet and outfall structures
- Elimination of erosive flow velocities
- Providing of underdrain systems, where applicable

The Stormwater Design Manual shall provide detailed guidance on the requirements for conveyance for each of the approved Stormwater Management Practices.

### **3-5.4. Treatment/Geometry Conditions**

All Stormwater Management Practices shall be designed to capture and treat Stormwater runoff according to the specifications outlined in the Stormwater Design Manual. These specifications will designate the water quantity and quality treatment criteria that apply to an approved Stormwater Management Practice.

### **3-5.5. Landscaping Plans Required**

All Stormwater Management Practices must have a landscaping plan detailing both the vegetation to be in the practice and how and who will manage and maintain this vegetation. A registered landscape architect or soil conservation district or soil conservation expert must prepare this plan.

### **3-5.6. Non-Structural Stormwater Practices**

The use of non-structural Stormwater Treatment Practices is encouraged in order to minimize the reliance on structural practices. Credit in the form of reductions in the amount of Stormwater that must be managed can be earned through the use of non-structural practices that reduce the generation of Stormwater from the Site. These non-structural practices are explained in detail in the Stormwater Design Manual and applicants wishing to obtain credit for use of non-structural practices must ensure that these practices are documented and remain unaltered by subsequent property owners.

### **Section 3-6. Maintenance and Repair of Stormwater Facilities**

#### **Maintenance Covenants**

Maintenance of all Stormwater Management facilities shall be ensured through the creation of a formal maintenance covenant that must be approved by the AEA and recorded into the land record prior to final plan approval. As part of the covenant, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the Stormwater Management facility. The covenant shall also include plans for periodic inspections to ensure proper performance of the facility between scheduled cleanouts.

The AEA, in lieu of a maintenance covenant, may accept dedication of any existing or future Stormwater Management facility for maintenance, provided such facility meets all the requirements of this chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

## **CHAPTER 4: EROSION AND SEDIMENT CONTROL**

### **Section 4-1. Introduction**

During the construction process, soil is the most vulnerable to erosion by wind and water. This eroded soil endangers water resources by reducing water quality, and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches, and the dredging of lakes. In addition, clearing grading during construction causes the loss of native vegetation necessary for terrestrial and aquatic habitat, and to provide a healthy living environment for citizens of DeSoto County.

As a result, the purpose of this Chapter is to safeguard Persons, protect property, prevent damage to the environment and promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity which disturbs or breaks the topsoil or results in the movement of earth on land in DeSoto County.

### **Section 4-2. Applicability**

No Person shall be granted a permit for Land Disturbing Activity or Construction Activity which would require the uncovering of 1 or more acres without the approval of an Erosion and Sediment Control Plan by the AEA.

No permit is required for the following activities:

1. Any emergency activity that is immediately necessary for the protection of life, property or natural resources.
2. Existing nursery and agricultural operations.

### **Section 4-3. Design Requirements**

Grading, Erosion Control practices, Sediment Control practices, and waterway crossings shall meet the design criteria set forth in the Stormwater Design Manual, and shall be adequate to prevent transportation of sediment from the Site to the satisfaction of DeSoto County's AEA.

#### **4-3.1 Clearing and Grading**

Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when in compliance all other chapters of this Ordinance.

Clearing techniques that retain natural vegetation and retain natural drainage patterns, as described in Stormwater Design Manual, shall be used to the satisfaction of the AEA.

Phasing shall be required on all Sites disturbing greater than twenty acres, with the size of each phase to be established at plan review and as approved by the AEA.

Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.

Cut and fill slopes shall be no steeper than 2:1, except as approved by the AEA to meet other community or environmental objectives.

#### **4-3.2 Erosion Control**

Soil must be stabilized within five days of clearing or inactivity in construction.

If vegetative Erosion Control methods, such as seeding, have not become established within two weeks, the AEA may require that the Site be revegetated, or that a non-vegetative option be employed. The following criteria shall apply to revegetation efforts:

- Reseeding must be done with 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 percent (90%) of the seeded area.
- Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.
- Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.

On steep slopes or in drainage ways, special techniques that meet the design criteria outlined in Stormwater Design Manual shall be used to ensure stabilization.

Soil stockpiles must be stabilized or covered at the end of each workday.

At the close of the construction season or any termination of construction greater than two weeks, the entire Site must be stabilized, using a heavy mulch layer, or another method that does not require germination to control erosion.

Techniques shall be employed to prevent the blowing of dust or sediment from the Site.

Techniques that divert upland runoff past disturbed slopes shall be employed.

#### **4-3.3 Sediment Controls**

Sediment controls shall be provided in the form of settling basins or sediment traps or tanks, and perimeter controls.

Where possible, settling basins shall be designed in a manner that allows adaptation to provide long-term Stormwater Management.

Adjacent properties shall be protected by the use of a vegetated buffer strip, in combination with perimeter controls.

#### **4-3.4 Waterways and Watercourses**

When a wet Watercourse must be crossed regularly during construction, a temporary stream crossing shall be provided, and an approval obtained from the AEA.

When in-channel work is conducted, the channel shall be stabilized before, during and after work.

All on-Site Stormwater conveyance channels shall be designed according to the criteria outlined in Stormwater Design Manual.

Stabilization adequate to prevent erosion must be provided at the outlets of all pipes and paved channels.

#### **4-3.5 Construction Site Access**

A temporary access road shall be provided at all Sites.

Other measures may be required at the discretion of the AEA in order to ensure that sediment is not tracked onto public streets by construction vehicles, or washed into storm drains.

## **CHAPTER 5: REGULATED INDUSTRIAL SOURCES**

### **Section 5-1. Introduction**

The purpose of this chapter is to control Stormwater runoff from industrial sources in order to minimize, to the maximum extent practicable, Pollutants discharged from industrial sources into DeSoto County MS4. This reduction may be achieved by a combination of management practices, control techniques, system design, engineering methods, and plan review.

### **Section 5-2. Applicability.**

This chapter applies to all facilities that have Stormwater discharges associated with Industrial Activity, including Construction Activity. This section shall not apply to Industries which qualify for “No Exposure Exemption” from MDEQ, and DeSoto County will accept these exemptions in lieu of requiring Stormwater Management Plans.

### **Section 5-3. Availability of Information on Discharger to Public; use of Information Accepted as Confidential**

All information and data on a discharger obtained from reports, questionnaires, permits, monitoring programs, and from inspection shall be available to the public without restriction unless the discharger specifically requests confidential treatment and is able to demonstrate to the satisfaction of the AEA that the release of such information would divulge information regarding processes or methods which would be detrimental to the discharger’s competitive position. Information accepted by the AEA as confidential shall not be transmitted to the general public by the AEA unless written permission has been obtained from the discharger or under court order or as is required by the Mississippi Public Records Act. Any report, questionnaire, or other item required to be submitted by the discharger that contains such confidential data will be submitted in duplicate with one version containing the information and the second copy showing the information deleted that has been claimed as confidential. To the extent practicable, the AEA shall protect all information that is designated as confidential by the owner or its representative.

### **Section 5-4. Information Required**

All industries discharging into DeSoto County Storm Drainage System shall provide the AEA with a copy of their Notice of Intent (NOI). A copy of the Storm Water Pollution Prevention Plan (SWPPP) must be kept on the Industrial Site and available for inspection and copying at reasonable times by the AEA.

### **Section 5-5. Stormwater Pollution Prevention Plan (SWPPP) Requirements**

Any Person subject to an Industrial or Construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance

with said permit may be required in a form acceptable to the AEA prior to the allowing of discharges to the MS4.

The Storm Water Pollution Prevention Plan (SWPPP) must follow, at a minimum, the outline of the plan listed in the facility's NPDES Storm Water Permit language.

The AEA will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of Stormwater, the Storm Drain System, or waters of the U.S. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with Industrial Activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a Stormwater Pollution Prevention Plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

### **Section 5-6. Reporting**

Any facility required to sample under the NPDES Storm Water Permit shall provide a copy of the periodic monitoring report to the AEA.

The AEA may require reporting by dischargers of Stormwater runoff to the Stormwater Drainage System, where an NPDES storm water permit is not required, to provide information. This information may include any data necessary to characterize the storm water discharge.

### **Section 5-7. Accidental Discharges**

In the event of a significant spill or any other discharge which could constitute a threat to human health or the environment, the owner or operator of the facility shall give notice to the AEA and the local field office of the Mississippi Department of Environmental Quality as required by state and federal law following the Accidental Discharge.

If an emergency response by governmental agencies is needed, the owner or operator should also call DeSoto County Emergency Management Agency immediately to report the discharge. A written report must be provided to the AEA within five days of the time the discharger becomes aware of the circumstances, unless this requirement is waived by the AEA for good cause shown on a case-by-case basis, containing the following particulars:

1. A description of the discharge, including an estimate of volume
2. The exact dates, times, and duration of the discharge
3. Steps being taken to eliminate and prevent recurrence of the discharge, including any planned modification to contingency, SWPPP, or maintenance plans
4. A Site drawing should be rendered that shows the location of the spill on the impacted property, the direction of flow of the spill in regards to the topographical grade of the property, the impacted Watercourse(s), and the property or properties adjacent to the spill Site.

The discharger shall take all reasonable steps to minimize any adverse impact to the DeSoto County MS4, including such accelerated or additional monitoring as necessary to determine the nature and impact of the discharge. The interruption of business operations of the discharger shall not be a defense in an enforcement action necessary to maintain water quality and minimize any adverse impact that the discharge may cause.

It shall be unlawful for any entity, whether an individual, residential, commercial, or industrial entity, to fail to comply with the provisions of this section.

**Section 5-8. Fraud and False Statements**

Any reports required by this Ordinance or rules adopted hereunder and any other documents required by the AEA to be submitted or maintained by the discharger shall be signed by a responsible corporate official and certified as accurate to the best of their personal knowledge after appropriate investigation. It shall be subject to the enforcement provisions of this Ordinance and any other applicable local and state laws and regulations pertaining to fraud and false statements. Additionally, the discharger shall be subject to the provisions of 18 U.S. Code Section 309 of the Clean Water Act, as amended, governing false statements and responsible corporate officials.

**CHAPTER 6: PERMIT PROCEDURES AND REQUIREMENTS**

**Section 6-1. Permit Required**

No Applicant shall receive any of the building, grading or other land development permits required for land disturbance activities without first meeting the requirements of this Ordinance prior to commencing the proposed activity.

**6-1.1. Application Requirements**

Unless specifically excluded by this Ordinance, any land owner or operator desiring a permit for a Land Disturbance Activity shall submit to the AEA a permit application on a form provided by the AEA for that purpose.

Unless otherwise excepted by this Ordinance, a permit application must be accompanied by the following in order that the permit application is considered: a Final Stormwater Management Plan; and a non-refundable permit review fee.

The Final Stormwater Management Plan shall be prepared to meet the requirements of this Ordinance, and fees shall be those established by DeSoto County.

**6-1.2 Application Review Fees**

The fee for review of any land development application shall be based on the amount of land to be disturbed at the Site, and the fee structure shall be established by DeSoto County.

**6-1.3. Application Procedure**

Applications for Land Disturbance Activity permits must be filed with the AEA on any regular business day.

Permit applications shall include the following: two copies of the final Stormwater Management Plan and any required review fees.

Within fifteen business days of the receipt of a complete permit application, including all documents as required by this Ordinance, the AEA shall inform the applicant whether the final Stormwater Management Plan is approved or disapproved.

If the Final Stormwater Management Plan is disapproved, the applicant may revise the Final Stormwater Management Plan. If additional information is submitted, DeSoto County’s AEA shall have fifteen business days from the date the additional information is received to inform the applicant that the final plan is either approved or disapproved.

If the permit application and final Stormwater Management Plan are approved by the AEA, all appropriate Land Disturbance Activity permits shall be issued.

**6-1.4. Permit Duration**

Permits issued under this section shall be valid from the date of issuance through the date the AEA notifies the permit holder that all Stormwater management practices have passed the final inspection required under permit condition.

**Section 6-2. Requirements for Stormwater Management Plan Approval**

**6-2.1. Stormwater Management Plan Required for All Developments.**

No application for development will be approved unless it includes a Stormwater Management Plan detailing in concept how runoff and associated water quality impacts resulting from the development will be controlled or managed and otherwise complies with this Ordinance. This plan must indicate whether Stormwater will be managed on-Site or off-Site and, if on-Site, the general location and type of practices.

The Stormwater Management Plan(s) shall be referred for comment to all other interested agencies, and any comments must be addressed in a final Stormwater Management Plan. This final plan must be signed by a licensed professional engineer (PE), who will verify that the design of all Stormwater Management Practices meet the submittal requirements outlined in the Submittal Checklist found in the Stormwater Design Manual. No building, grading, or sediment control permit shall be issued until a satisfactory final Stormwater Management Plan, or a waiver thereof, shall have undergone a review and been approved by the AEA after determining that the plan or waiver is consistent with the requirements of this Ordinance.

**6-2.2. Final Stormwater Management Plan Requirements**

A final Stormwater Management Plan must be submitted for approval. The final Stormwater Management Plan shall meet the requirements of Section 6, Stormwater

Management Plan, of the Stormwater Design Manual which shall include, but is not limited to:

1. Contact Information: The name, address, and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected.
2. Topographic Base Map: A 1" = 200' topographic base map of the Site which extends a minimum of 200 feet beyond the limits of the proposed development and indicates existing surface water drainage including streams, ponds, culverts, ditches, and wetlands; current land use including all existing structures; locations of utilities, roads, and easements; and significant natural and manmade features not otherwise shown.
3. Calculations: Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in this Ordinance. Such calculations shall include (i) description of the design storm frequency, intensity and duration, (ii) time of concentration, (iii) Soil Curve Numbers or runoff coefficients, (iv) peak runoff rates and total runoff volumes for each watershed area, (v) infiltration rates, where applicable, (vi) culvert capacities, (vii) flow velocities, (viii) data on the increase in rate and volume of runoff for the design storms referenced in the Stormwater Design Manual, and (ix) documentation of sources for all computation methods and field test results.
4. Soils Information: If a Stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-Site boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.
5. Maintenance Covenant: The design and planning of all Stormwater Management facilities shall include detailed maintenance and repair procedures to ensure their continued function. These plans will identify the parts or components of a Stormwater Management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan. The Maintenance Covenant must also comply with Sections 3-6 and 7-4 of this Ordinance.
6. Landscaping plan: The applicant must present a detailed plan for management of vegetation at the Site after construction is finished, including 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 landscape architect or by the soil conservation district.
7. Erosion and Sediment Control Plan: The applicant shall submit an erosion and sediment control plan which shall include:
  - a.) A sequence of construction of the development Site, including stripping and clearing, rough grading, construction of utilities, infrastructure, and buildings, and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas,

- and the sequence of clearing, installation of temporary erosion and sediment measures, and establishment of permanent vegetation.
- b.) All erosion and sediment control measures necessary to meet the objectives of this local regulation throughout all phases of construction and permanently, after completion of development of the Site. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.
  - c.) Seeding of mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.
  - d.) Modifications to the plan
    - 1). Major amendments of the erosion and sediment control plan shall be submitted to the AEA and shall be processed and approved, or disapproved, in the same manner as the original plans.
    - 2). Field modifications of a minor nature may be authorized by the AEA by written authorization to the permittee.
8. Other Environmental Permits: The applicant shall assure that all other applicable environmental permits have been acquired for the Site prior to approval of the final Stormwater design plan.
  9. Preconstruction Site Checklist: The applicant shall submit the Preconstruction Site Runoff Control Checklist provided in Section 3.3.1 of the Stormwater Design Manual.

### **Section 6-3. Performance Bond/Security.**

The AEA may, at its discretion, require the submittal of a performance security or bond prior to issuance of a permit in order to insure that the Stormwater practices are installed by the permit holder as required by the approved Stormwater Management Plan. The amount of the installation performance security shall be the total estimated construction cost of the Stormwater Management Practices approved under the permit, plus 25%. The performance security shall contain forfeiture provisions for failure to complete work specified in the Stormwater Management Plan.

The installation performance security shall be released in full only upon submission of “as built plans” and written certification by a registered professional engineer that the Stormwater practice has been installed in accordance with the approved plan and other applicable provisions of this ordinance. The AEA will make a final inspection of the Stormwater practice to ensure that it is in compliance with the approved plan and the provisions of this ordinance. Provisions for a partial pro-rata release of the performance security based on the completion of various development stages can be done at the discretion of the AEA.

## **CHAPTER 7: INSPECTION AND MONITORING**

### **Section 7-1. Introduction**

Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or Pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or Pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the NPDES Stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other Stormwater treatment practices.

### **Section 7-2. Monitoring of Industrial Discharges**

#### **7-2.1. Applicability.**

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

#### **7-2.2. Access to Facilities.**

The AEA shall be permitted to enter and inspect facilities subject to regulation under this Ordinance as often as may be necessary to determine compliance with this Ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the AEA.

Facility operators shall allow the AEA ready access to all necessary areas of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge Stormwater, and the performance of any additional duties as defined by state and federal law.

The AEA shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the AEA to conduct monitoring and/or sampling of the facility's Stormwater discharge.

The AEA has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure Stormwater flow and quality shall be calibrated to ensure their accuracy.

Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the AEA and shall not be replaced except as permitted by the AEA. The costs of clearing such access shall be borne by the operator.

Unreasonable delays in allowing the AEA access to a permitted facility is a violation of a Stormwater discharge permit and of this Ordinance. A person who is the operator of a facility with a NPDES permit to discharge Stormwater associated with Industrial Activity commits an offense if the person denies the AEA reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Ordinance.

If the AEA has been refused access to any part of the premises from which Stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this Ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the AEA may seek issuance of a search warrant from any court of competent jurisdiction.

### **7-2.3. Sampling at Industrial Facilities**

Samples of storm water collected for compliance monitoring shall be representative of the discharge. Sampling locations will be those defined in the NPDES Permit. Sampling and analyses shall be in accordance with 40 CFR Part 122.21 and 40 CFR Part 136 and/or applicable Permit language.

Samples that may be taken by the AEA and/or his designated representatives for the purpose of determining compliance with the requirements of this Ordinance or rules adopted hereunder may be split with the discharger if requested before the time of sampling.

The AEA may require a Stormwater discharger to install and maintain at the discharger's expense a suitable manhole or sampling facility at the discharger's facility or suitable monitoring access to allow observation, sampling, and measurement of all Stormwater runoff being discharged into the DeSoto County Storm Drainage System. Sampling manhole or access shall be constructed in accordance with plans approved by the Division and shall be designed so that flow measurement and sampling equipment can be installed. Access to the manhole or monitoring access shall be available to the AEA and/or his designated representatives at all times.

## **Section 7-3. Land Development Inspection**

### **7-3.1. Right-of-Entry for Inspection**

When any new drainage control facility is installed on private property, or when any new connection is made between private property and a public drainage control system,

sanitary sewer or combined sewer, the property owner shall grant to the AEA the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this Ordinance is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this Ordinance.

### **7-3.2. Inspection**

The AEA or designated agent shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the erosion and sediment control plan as approved. Plans for grading, stripping, excavating, and filling work bearing the stamp of approval of the AEA shall be maintained at the Site during the progress of the work. In order to obtain inspections, the permittee shall notify the AEA at least two (2) working days before the following:

1. Start of Construction
2. Erosion and sediment control measures are in place and stabilized.
3. Site Clearing has been completed
4. Rough Grading has been completed
5. Final Grading has been completed
6. Close of the Construction Season
7. Final Landscaping

The permittee or his/her agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved erosion and sediment control plan(s). The purpose of such inspections will be to determine the overall effectiveness of the control plan, and the need for additional control measures. All inspections shall be documented in written form and submitted to the AEA at the time interval specified in the approved permit.

The AEA or its designated agent shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed.

### **7-3.3. As Built Plans**

All applicants are required to submit actual “as built” plans for any Stormwater Management Practices located on-Site after final construction is completed. The plan must show the final design specifications for all Stormwater Management facilities and must be certified by a professional engineer licensed in the State of Mississippi. A final inspection by the AEA is required before the release of any performance securities can occur.

## **Section 7-4. Stormwater Management Facilities Maintenance**

### **7-4.1. Requirements for Maintenance Covenants**

All Stormwater Management facilities must undergo, at the minimum, an annual inspection to document maintenance and repair needs and ensure compliance with the

requirements of this Ordinance and accomplishment of its purposes. These needs may include; removal of silt, litter and other debris from all catch basins, inlets and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation. Any maintenance needs found must be addressed in a timely manner, as determined by the AEA, and the inspection and maintenance requirement may be increased as deemed necessary to ensure proper functioning of the Stormwater Management facility.

**7-4.2. Records of Installation and Maintenance Activities.**

Parties responsible for the operation and maintenance of a Stormwater Management facility shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least 3 years. These records shall be made available to the AEA during inspection of the facility and at other reasonable times upon request.

**CHAPTER 8: ENFORCEMENT**

**Section 8-1. Violations**

Any activity that is commenced or is conducted contrary to this Ordinance may be restrained by injunction or otherwise abated in a manner provided by law.

**Section 8-2. Notice of Violation.**

When the AEA determines that an activity is not being carried out in accordance with the requirements of this Ordinance, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:

1. The name and address of the owner or applicant;
2. The address when available or a description of the building, structure or land upon which the violation is occurring;
3. A statement specifying the nature of the violation;
4. A description of the remedial measures necessary to bring the activity into compliance with this Ordinance and a time schedule for the completion of such remedial action;
5. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;

Such notice may require without limitation:

1. The performance of monitoring, analyses, and reporting;
2. The elimination of illicit connections or discharges;
3. That violating discharges, practices, or operations shall cease and desist;
4. The abatement or remediation of Stormwater pollution or contamination hazards and the restoration of any affected property; and
5. Payment of a fine to cover administrative and remediation costs (per Section 8-12); and
6. The implementation of source control or treatment BMPs.

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

### **Section 8-3. Appeal of Notice of Violation**

Any person receiving a Notice of Violation may appeal the determination of the AEA. The notice of appeal must be received within 10 days from the date of the Notice of Violation. Hearing on the appeal before the DeSoto County Board of Supervisors shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the DeSoto County Board of Supervisors shall be final, yet the permittee shall have the right to appeal to a Circuit Court within 10 days of this decision.

### **Section 8-4. Enforcement Measures after Appeal**

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 30 days of the decision of the DeSoto County Board of Supervisors upholding the decision of the AEA, then representatives of the AEA shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

### **Section 8-5. Cost of Abatement of the Violation**

Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 10 days. If the amount due is not paid within a timely manner as determined by the decision of the AEA or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this article shall become liable to DeSoto County by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate of 8 percent per annum shall be assessed on the balance beginning on the 30<sup>th</sup> day following discovery of the violation.

### **Section 8-6. Injunctive Relief**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the

provisions of this Ordinance, the AEA may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

**Section 8-7. Violations Deemed a Public Nuisance**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator’s expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

**Section 8-8. Stop Work Orders**

Persons receiving a notice of violation will be required to halt all construction activities. This “stop work order” will be in effect until the AEA confirms that the development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner can result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this ordinance.

**Section 8-9. Restoration of Lands**

Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the AEA may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

**Section 8-10. Holds on Occupation Permits**

Occupation permits will not be granted until corrections to all Stormwater practices have been made and accepted by the AEA.

**Section 8-11. Revocation of Permit**

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

**Section 8-12. Civil and Criminal Penalties**

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this Ordinance shall be punished by a fine not to exceed One-Thousand Dollars (\$1,000) or by imprisonment for a period not to exceed six

months, or both such fine and imprisonment. Such person shall be guilty of a separate offense for each day during which the violation occurs or continues.

DeSoto County may recover all attorney's fees court costs and other expenses associated with enforcement of this Ordinance, including sampling and monitoring expenses.

**Section 8-13. Remedies not Exclusive**

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

Approved by: \_\_\_\_\_

Date \_\_\_\_\_

## RESOLUTION ADOPTING STORMWATER CONTROL ORDINANCE

WHEREAS, the Environmental Protection Agency, in accordance with the Clean Water Act of 1989, has mandated that the political subdivisions of States in certain urban areas, which includes DeSoto County, adopt and implement certain stormwater management practices including, but not limited to, an ordinance setting forth best management practices and stormwater enforcement guidelines; and

WHEREAS, DeSoto County, Mississippi desires to fully and faithfully comply with the Clean Water Act and the mandates of the Environmental Protection Agency and desires to protect the health, welfare and safety of its citizens by thoroughly and properly regulating and controlling stormwater by adopting and implementing stormwater management practices; and

WHEREAS, the DeSoto County Board of Supervisors has exhaustively investigated and pursued the adoption of a ordinance which fully achieves the goals and objectives of the Clean Water Act, the directives of the Environmental Protection Agency, the directives of the Mississippi Department of Environmental Quality and best protects the health, safety and welfare of the citizens of DeSoto County; which ordinance it desires to immediately adopt but begin implementation of effective November 1, 2006.

**THEREFORE, BE IT RESOLVED**, as follows:

1. The DeSoto County Board of Supervisors hereby adopts a stormwater management practices ordinance, a copy of which is attached hereto, with said ordinance to be implemented and put into effect effective November 1, 2006.

RESOLVED, this the 19<sup>th</sup> day of December, 2005, upon motion made by

Supervisor Tommy Lewis and seconded by Supervisor Allen Latimer and

approved by the following vote:

Supervisor Tommy Lewis	<u>yes</u>
Supervisor Bill Russell	<u>yes</u>
Supervisor Gene Thach	<u>yes</u>
Supervisor Allen Latimer	<u>yes</u>
Supervisor Jesse Medlin	<u>yes</u>

Tommy Lewis  
Tommy Lewis, President  
DeSoto County Board of Supervisors

DATE: 12-19-05

W. E. Davis "Chancery Clerk"  
W. E. "Sluggo" Davis, Clerk  
By: Misty J. Heffer D.C.

