

ORDINANCE NUMBER 14- 02

AN ORDINANCE TO THE CITY OF SOMERSET, KENTUCKY, FULLY REPEALING THE CITY'S PREVIOUS AMENDMENTS MADE TO 00-18, SPECIFICALLY THE AMENDMENTS SET FORTH IN ORDINANCE NUMBER 05-02 AND COMMONLY REFERRED TO AS THE CITY'S "STORMWATER MANAGEMENT ORDINANCE", AND ADOPTING IN ITS PLACE THE CITY'S NEW STORMWATER ORDINANCE AS CONTAINED HEREIN; THIS ORDINANCE SHALL STAND ALONE AND HEREAFTER NOT BE CONSIDERED PART OF THE CITY'S PLANNING AND ZONING ORDINANCE;

WHEREAS, THE PRESENT ORDINANCE REFLECTS AMENDMENTS AND ADDITIONS TO REGULATIONS NOW IN EFFECT AND FOUND WITHIN KRS, KAR, AND ALL OTHER APPLICABLE STATE AND/OR FEDERAL LAW, AND THEREFORE BRINGS THE CITY'S STORM WATER MANAGEMENT PRACTICES INTO COMPLIANCE;

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF SOMERSET, KENTUCKY:

SECTION I.

THAT THE FOLLOWING IS HEREBY ADOPTED BY THE CITY OF SOMERSET AS THE CITY'S OFFICIAL "STORMWATER MANAGEMENT ORDINANCE", AND THEREFORE SHALL REPLACE IN FULL THE FORMER STORM WATER ORDINANCE OF THE CITY SET FORTH IN ORDINANCE NUMBER 05-02, WHICH AMENDED ORDINANCE NUMBER 00-18, AND WHICH WAS KNOWN AS THE STORM WATER MANAGEMENT ORDINANCE, AND THAT THE PRESENT ORDINANCE SHALL APPLY TO ANY AREA LOCATED WITHIN THE CITY'S CORPORATE LIMITS AND/OR WITHIN THE CITY'S STORM WATER MANAGEMENT & ENFORCEMENT JURISDICTION AS MAY BE SET BY THE COMMONWEALTH OF KENTUCKY AND/OR PROPER FEDERAL AUTHORITY;

SECTION II.

THAT THE CITY'S "STORM WATER MANAGEMENT ORDINANCE" IS HEREBY ADOPTED AS FOLLOWS:

CHAPTER 1 - GENERAL PROVISIONS

1.1 DEFINITIONS:

For the purposes of this Ordinance, the following terms, phrases, words, and their derivatives shall have the meaning stated below unless expressly stated otherwise:

APPLICANT: The individual or entity who submits an application to the City of Somerset for an EPSC Permit pursuant to this ordinance.

APPROVING AGENCY: The City of Somerset.

AS-BUILTS: Construction drawings or plans that have been updated to show actual constructed locations of roadways, storm and sanitary sewers, culverts, catch basins, manholes, headwalls, swales and other infrastructure improvements. As-built information may include, but is not limited to, pipe size and material, horizontal and vertical locations of pipelines, rim and invert elevations of manhole and catch basin structures, angles and offsets, and roadway and pipe slopes.

BEDROCK: In place solid rock.

BENCH: A relatively level step excavated into earth material on which fill is to be placed.

BEST MANAGEMENT PRACTICES (BMP): A technique or series of techniques, structural or nonstructural, which are proven to be effective in reducing pollutants in storm water, controlling runoff, erosion and sedimentation and mitigate flooding.

BORROW: Earth material acquired from an off-site location for use in grading on a site.

CLEARING AND GRUBBING: The cutting and removal of trees, shrubs, bushes, windfalls and other vegetation including removal of stumps, roots, and other remains in the designated areas.

COMMUNITY WATERS: Any and all rivers, streams, creeks, branches, lakes, reservoirs,

CONTRACTOR: A person who contracts with the permittee, landowner, developer, or another contractor (i.e. subcontractor) to undertake any or all the land disturbance activities covered by this Ordinance.

CO-PERMITTEE: Any person, other than the permittee, including, but not limited to, a developer or contractor, who has or represents financial or operational control over the land disturbing activity.

DETENTION FACILITY: A temporary or permanent natural or man-made structure that provides for the temporary storage of storm water runoff which is designed so as not to create a permanent pool of water.

DEVELOPER: Any person, firm, corporation, sole proprietorship, partnership, state agency, or political subdivision thereof engaged in a land disturbance activity and/or in the development or re-development of property.

DRAINAGE AREA: Any area-contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridgeline.

ENFORCEMENT AGENCY: The City of Somerset.

ENGINEER: A professional engineer licensed in the Commonwealth of Kentucky to practice in the field of civil works.

EROSION: The wearing away of the ground surface as a result of the movement of wind, water, ice, and/or land disturbance activities.

EROSION PREVENTION AND SEDIMENT CONTROL (EPSC): The prevention of soil erosion and control of solid material during land disturbing activity to prevent its transport out of the disturbed area by means of air, water, gravity, or ice.

EPSC DESIGN MANUAL AND STANDARDS: A compilation of rules, design criteria, guidelines, and standards which are proven methods of controlling construction related surface runoff, erosion and sedimentation. The City of Somerset's "Regulations & Specifications Pertaining to Roadway and Drainage Design" manual, as adopted and approved by the Executive Authority of the City, shall serve as the City's EPSC Design Manual and Standards.

EPSC PERMIT: A permit required by this Ordinance for land disturbance activities.

EPSC PLAN: A detailed plan which includes a set of best management practices or equivalent measures designed to control surface runoff and erosion and to retain sediment on a specific development site or parcel of land during the period in which pre-construction and construction related land disturbances, fills, and soil storage occur, and before final improvements are completed, all in accordance with this Ordinance.

EROSION CONTROL INSPECTOR: Any person designated as such by, and acting under the Authority of, the City of Somerset pursuant to this Ordinance.

EXISTING GRADE: The grade prior to grading.

EXTENDED DETENTION: A storm water design feature that provides gradual release of a volume of water in order to increase settling of pollutants and protect downstream channels from frequent storm events.

FINISH GRADE: The final grade of the site which conforms to the approved plan.

FLOODPLAIN: The one hundred (100) year floodplain which is that area adjoining a watercourse which could be inundated by a flood that has a one (1) percent chance of being equaled or exceeded in any given year and is delineated on the Federal Emergency Management Agency Floodway Maps.

FLOW ATTENUATION: Prolonging the flow time of runoff to reduce the peak discharge.

GENERAL PERMIT: A Kentucky Pollutant Discharge Elimination System (KPDES) Storm Water General Permit for storm water discharges related to construction activities that disturb one (1) acre or more. Coverage under this general storm water permit is obtained by filing a Notice of Intent (NOI) with the Kentucky Division of Water.

GRADE: The vertical location of the ground surface.

HAZARDOUS MATERIALS: Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, biological 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.

ILLEGAL DISCHARGE: Any direct or indirect non-storm water substance, including silt or sediment, or hazardous material disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means, intentionally or unintentionally, into the MS4, community waters, waters of the Commonwealth, or any area draining directly or indirectly into the MS4, except as exempted in this Ordinance.

ILLICIT CONNECTION: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4. Included are conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had previously allowed, permitted, or approved.

INFILTRATION: The passage or movement of water into the soil surface.

INSPECTOR: Any person designated by the Enforcement Agency, the City of Somerset. (Also see Erosion Control Inspector.)

ISSUING AUTHORITY: The City of Somerset.

KPDES: Kentucky Pollutant Discharge Elimination System.

LAND DISTURBANCE ACTIVITY: Any land change that may result in soil erosion from wind, water and/or ice and the movement of sediments into or upon waters, lands, or rights-of-way within the City of Somerset, including but not limited to building demolition, clearing and grubbing, grading, excavating, transporting and filling of land.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4): The City of Somerset's conveyance, or system of conveyances, including roads with drainage systems, municipal and county streets, catch basins, curbs, gutters, ditches, man-made channels, and storm drains designed or used for collecting or conveying storm water. Sanitary and combined sewers are not included in the definition of the municipal separate storm sewer system.

NON-STORM WATER DISCHARGE: Any discharge to the MS4, community waters or waters of the Commonwealth that is not composed solely of storm water except as permitted by this Ordinance.

OUTFALL: The point of discharge to any watercourse from a public or private storm water drainage system.

PERMITTEE: The applicant in whose name a valid EPSC Permit is duly issued pursuant to this Ordinance.

POLLUTANT: Anything, which causes or contributes to pollution, including, but not limited to, paints, varnishes, and solvents; oil and other automotive fluids; silt and sediments; floatables, pesticides, herbicides, and fertilizers; hazardous substances; sewage, animal wastes, fecal coliform and pathogens;

dissolved and particulate metals; non-hazardous liquids; and yard wastes, refuse, construction debris, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations.

PREMISES: The area of land, site, grounds, or property on which the illegal discharge emanates.

REDEVELOPMENT: Any construction, alteration, or improvement involving land disturbance performed on sites where existing land use is commercial, industrial, institutional, or multifamily residential.

REGULATIONS & SPECIFICATIONS PERTAINING TO ROADWAY AND DRAINAGE

DESIGN MANUAL: A ESPC manual as adopted and approved by the Executive Authority of the City. (Also see EPSC Design Manual and Standards.)

RETENTION FACILITY: A temporary or permanent natural or manmade structure that provides for the storage of storm water runoff by means of a permanent pool of water.

RETROFITTING: The construction of a structural BMP in a previously developed area or the modification of an existing structural BMP, to improve water quality and reduce flow rate and volume over current conditions.

ROUGH GRADE: The stage at which the grade approximately conforms to the approved plan.

RUNOFF: Rainfall, snowmelt, or irrigation water flowing over the ground surface.

SEDIMENT: Soils or other surficial materials transported or deposited by the action of wind, water, ice, or gravity as a product of erosion.

SEDIMENTATION: The process or action of depositing sediment that is determined to have been caused by erosion.

SITE: The entire area of land on which the land disturbance activity is proposed in the EPSC permit application.

SITE PLAN: A plan or set of plans showing the details of any land disturbance activity of a site including but not limited to the construction of: structures, open and enclosed drainage facilities, storm water management facilities, parking lots, driveways, curbs, pavements, sidewalks, bike paths, recreational facilities, ground covers, plantings, and landscaping.

SITE WASTE: Waste from the construction site such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary wastes.

SLOPE: The incline of a ground surface expressed as a ratio of horizontal distance to vertical

SOIL: Naturally occurring surficial deposits overlying bedrock.

STRIPPING: Any activity which removes or significantly disturbs the vegetative surface cover including clearing, grubbing or stumps and root mat, and topsoil removal.

STORMWATER BMP PLAN: A storm water plan that determines the best management practices for a site. (Also see Best Management Practices.)

STORMWATER DESIGN STANDARDS: The City of Somerset's storm water design standards which the City designates as the official guide for storm water design principles, methods and practices. (Also see EPSC Design Manual and Standards; Regulations & Specifications Pertaining to Roadway and Drainage Design Manual.)

STORMWATER MANAGEMENT:

- (a) Quantitative control: A system of vegetative and structural measures that control the increased volume and rate of surface runoff caused by man-made changes to the land; and
- (b) Qualitative control: A system of vegetative, structural, and other measures that reduce or eliminate pollutants that might otherwise be carried by surface runoff.

TOPSOIL: The upper layer of soil.

UTILITY: The owner/operator of any underground facility including an underground line, facility, system, and its appurtenances used to produce, store, convey, transmit, or distribute communications, data, electricity, power, heat, gas, oil, petroleum products, potable water, storm water, steam, sewage and other similar substances.

WATERCOURSE: Any natural or improved stream, river, creek, ditch, channel, canal, conduit, gutter, culvert, drain, gully, swale, or wash in which waters flow either continuously or intermittently.

WATERSHED: A region draining to a specific river, river system, or body of water.

WATERS OF THE COMMONWEALTH: Any surface watercourses and water bodies including all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry storm water at and during all times and seasons.

WETLANDS: A lowland area such as a marsh, that is saturated with moisture, as defined in Sec. 404, Federal Water Pollution Control Act Amendments of 1987.

1.2 AUTHORITY AND OTHER LAWS

- A. This Ordinance is adopted by the Somerset City Council, Kentucky under authority of Chapter 100 of the Kentucky Revised Statutes, and shall be administered by the City of Somerset, by and through the Executive Authority of the City, and/or his/her designee. The City may be referred to as the "Approving Agency", "Issuing Authority" and "Enforcement Agency" in this Ordinance.
- B. This Ordinance is adopted pursuant to the powers granted and limitations imposed by the Federal Clean Water Act, and in particular those parts that authorize local governments to require any state or federal department or agency to comply with all local water pollution control requirements.
- C. This Ordinance shall be construed to insure consistency with requirements of the Clean Water Act, the Kentucky Pollutant Discharge Elimination System (KPDES), and acts amendatory thereof or any other applicable regulations.

- D. The standards and requirements set forth herein and promulgated pursuant to this Ordinance are minimum standards. This Ordinance does not intend nor imply that compliance by any person, company, developer, or any other entity will ensure that there will be no contamination, pollution, or discharge of pollutants into the MS4, community waters or waters of the Commonwealth.
- E. In their interpretation and other application, the provisions of this Ordinance shall be held to be minimum requirements. Whenever the requirements of this Ordinance are at variance with the requirements of any other city, state and/or federal law, including, but not limited to, said agencies' adopted rules, regulations, ordinances, or resolutions, the most restrictive or that imposing the higher standards shall govern.

1.3 PURPOSE

The requirements set forth in this Ordinance are intended to protect the general health, safety, and welfare of the citizens of the City of Somerset, Pulaski County, and the surrounding area known as Lake Cumberland, in the following manner:

- A. To protect and enhance the water quality of watercourses and water bodies in a manner pursuant to and consistent with the Federal Clean Water Act by addressing storm water runoff from new development projects and existing developments that discharge into the municipal separate storm sewer system (MS4), community waters and waters of the Commonwealth;
- B. To comply with all applicable state and federal requirements for clean water, including limitations on the discharge of pollutants as set forth by the Kentucky Pollutant Discharge Elimination System (KPDES); and all applicable provisions of the Federal National Pollution Discharge Elimination System's storm water general permit for Phase II communities.
- C. To establish legal authority to carry out all inspection, surveillance and monitoring, and enforcement procedures necessary to ensure compliance with this Ordinance

CHAPTER 2- ILLICIT DISCHARGE CONTROL

2.1 PURPOSE

In addition to this Ordinance's general purposes as set forth in Chapter 1, the requirements set forth in this Chapter are intended to:

- A. Prohibit illicit discharges and connections to the MS4;
- B. Regulate the contribution of pollutants to storm water discharges to the MS4 by any user.

2.2 PROHIBITION OF DISCHARGES

- A. No person, company, developer or any other entity shall discharge or cause to be discharged into the MS4, community waters or waters of the Commonwealth any hazardous materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. The commencement, conduct or continuance of any illegal discharge is prohibited.

- B. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition includes without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practice applicable at the time of connection.
- C. No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon a public or private property, driveway, parking area, street, alley, sidewalk, component of the MS4, community waters or waters of the Commonwealth, any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution. Wastes deposited in streets in proper waste receptacles for the purposes of collection are exempted from this prohibition.

2.3 PERMITTED DISCHARGES

- A. A discharge or flow of fire protection water that does not contain oil or hazardous substances or materials that the any regulatory Fire Code requires to be contained and treated prior to discharge;
- B. A discharge or flow from lawn watering, or landscape irrigation;
- C. A discharge or flow from a diverted stream flow or natural spring;
- D. Uncontaminated discharge or flow from a foundation drain, crawl space pump or footing drain;
- E. A discharge or flow from air conditioning condensation;
- F. A discharge or flow from individual residential car washing;
- G. A discharge or flow from a riparian habitat or wetland;
- H. Dechlorinated drainage from a private residential swimming pool containing no harmful quantities of chlorine or other chemicals;
- I. A discharge or flow from any other water source not containing pollutants; and
- J. Upon verbal notification to the Enforcement Agency and prior to time of the test, a discharge or flow from dye testing.

NOTE: No discharge or flow stated under Article 2.3 will be permitted if it has been determined by the Enforcement Agency to be a source of a pollutant or pollutants to the MS4, community waters or waters of the Commonwealth. Written notice of such determination shall be provided by the Enforcement Agency to the discharger.

2.4 OTHER DISCHARGES

The prohibition of discharges or flows shall not apply to any non-storm water discharges permitted under a NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the Kentucky Division of Water under the authority of the 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.

2.5 STORM WATER DISCHARGE PERMIT

Any person, company, developer or any other entity subject to a construction activity NPDES storm water discharge permit or Erosion Protection and Sediment Control (EPSC) Permit shall comply with all provisions of such permits. Proof of compliance with such permits may be required in a form acceptable to the Enforcement Agency.

2.6 RULES AND REGULATIONS

A. Elimination of Illegal Discharges:

Notwithstanding the requirements of this Chapter herein, the Enforcement Agency may require by written notice that a person responsible for an illegal discharge immediately, or by a specified date, discontinue the discharge and, if necessary, take measures to eliminate the source of the discharge to prevent the occurrence of future illegal discharges.

B. Remediation:

Whenever the Enforcement Agency finds that a discharge of pollutants is taking place or has occurred which will result in or has resulted in pollution of storm water entering the MS4, community waters, or waters of the Commonwealth, the Enforcement Agency may require by written notice to the owner of the premises and/or the responsible person that the pollution be remediated and the affected property restored within a specified time.

C. Monitoring and Analyses:

The Enforcement Agency may require by written notice of requirement that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to storm water pollution, illegal discharges, and/or non-storm water discharges to the MS4, community waters, or waters of the Commonwealth system, to undertake at said person's expense such monitoring and analyses by a state certified laboratory and furnish such reports to the Enforcement Agency as deemed necessary to determine compliance with this ordinance.

D. Notification of Spills:

Notwithstanding other requirements of local, state and federal 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 pollutants or hazardous materials which are resulting or may result in illegal discharges to the MS4, community waters or waters of the Commonwealth from said facility, 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 a hazardous material said person shall immediately notify emergency response officials of the occurrence via emergency dispatch services (911). In the event of a release of non-hazardous materials, said person shall notify the Enforcement Agency in person or by phone or facsimile no later than 5:00 p.m. of the next business day. Notifications shall be confirmed by written notice addressed and mailed to the Enforcement Agency within three business days of the notice.

2.7 INSPECTION AND MONITORING

A. Inspection:

Whenever the Enforcement Agency has cause to believe that there exists, or potentially exists, any condition which constitutes a violation of this Ordinance, the Enforcement Agency may enter the suspect property, MS4, community waters and waters of the Commonwealth at all reasonable times for inspection. If it is determined an illegal discharge emanates from private premises, the owner or operator of the premises will be notified in accordance with the provisions of this Ordinance. Copies of records of storm water compliance shall be provided to the Enforcement Agency.

B. Sampling Devices and Testing:

During any inspection as provided herein, the Enforcement Agency may take any samples and perform any testing deemed necessary to aid in the pursuit of the inquiry or to record site activities. The cost of all testing may be passed on to the owner or operator of the premises where the illegal discharge emanates.

2.8 ENFORCEMENT

A. Notice of Violation:

Whenever the Enforcement Agency finds that a person, company, developer or any other entity has violated a prohibition or failed to meet a requirement of this Ordinance, the Enforcement Agency may order compliance by a written "Notice of Violation" to the responsible entity. Such notice may include, but is not limited to, the following information:

- (1) The performance of monitoring, analyses by a state certified laboratory, and reporting;
- (2) The elimination of illicit connections or discharges; that violating discharges, practices, or operations shall cease and desist;
- (3) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
- (4) Payment of a fine to cover administrative and remediation costs of the Enforcement Agency; and
- (5) The implementation of source control or treatment best management practices.

NOTE: If abatement of a violation and/or restoration of affected property is required, the Notice of Violation 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 the Enforcement Agency and/or their designee, and that the expense thereof shall be charged to the violator.

B. Abatement by City of Somerset

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, then the Enforcement Agency and/or their designee shall enter upon the subject private premises and is hereby 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 Enforcement Agency or their designee to enter upon the premises pursuant to this Ordinance.

C. Charging Cost of Abatement/Liens

Within 30 days after abatement of the nuisance by the Enforcement Agency, the City shall notify the property owner of the premises of the cost of abatement, including administrative costs. If the amount due is not paid within 10 days, the City Clerk shall enter the amount due on the tax roll and collect the cost as a special assessment against the property and said cost shall also constitute a lien on the property.

D. Urgency Abatement

The Enforcement Agency is authorized to require immediate abatement of any violation of this Ordinance that constitutes an immediate threat to the health, safety or well-being of the public *without issuing a Notice of Violation* as set forth above. If any such violation is not abated immediately as directed, the City of Somerset and/or their designee is authorized to enter onto private property and to take any and all measures required to remediate the violation. Any expense related to such remediation undertaken by the City shall be fully reimbursed by the property owner and/or responsible party.

E. Violations

It shall be unlawful for any person to violate, or fail to comply with, any provision of this Ordinance. A violation of, or failure to comply with, any of the requirements of this Ordinance shall constitute a Misdemeanor, and upon conviction by a court of competent jurisdiction, shall be punishable by a fine of not less than one hundred fifty dollars (\$150.00) but not more than ten thousand dollars (\$10,000.00), or by imprisonment for not more than ninety (90) days, or both, for each separate offense. Each day a violation of any part of this Ordinance exists constitutes a separate offense.

F. Acts Potentially Resulting in a Violation of the Federal Clean Water Act

Any person who violates any provision of this Ordinance, or any provision of any permit issued by the City of Somerset, may also be in violation of the Clean Water Act and may be subject to the sanctions of those acts including civil and criminal penalties. Any enforcement action authorized under this Ordinance shall also include written notice to the violator of such potential liability.

CHAPTER 3 - EROSION PROTECTION AND SEDIMENT CONTROL (EPSC)

3.1 PURPOSE

In addition to this Ordinance's general purposes as set forth in Chapter 1, the requirements set forth in this Chapter are intended to:

- A. Control or eliminate soil erosion and sedimentation from construction site storm water runoff related to land disturbing activities within the City's jurisdictional limits; and
- B. Control or eliminate waste from construction site operators that may cause adverse impacts to water quality.

3.2 LAND DISTURBANCE ACTIVITY

Land Disturbance Activity includes, but is not limited to, the following:

- A. Any activity disturbing one (1) or more acres of soil is subject to the provisions of this Ordinance and such activity shall not take place without an authorized EPSC Permit issued by the City of Somerset, or other proper state and/or federal authority.
- B. Land disturbance activities that disturb less than one (1) acre on individual lots or parcels which are determined by the City of Somerset to be part of a larger common plan of development are also subject to the provisions of this Ordinance. If an individual lot or parcel owner is different than the Permittee of the larger common plan of development, the individual lot or parcel owner is responsible for complying with the provisions of this Ordinance and is required to obtain an EPSC Permit. The Permittee of the larger plan of development is also responsible for EPSC measures for land disturbance activity on each of the individual lots and/or parcels until the City determines that 80% build-out of the development has been reached.
- C. Unless determined to be a problem by the Enforcement Agency, the following activities are exempt from obtaining an EPSC permit and are further exempt from the provisions of this Ordinance:
 - (1) Emergencies posing an immediate danger to life or property, substantial flood or fire hazards, or natural resources;
 - (2) Underground utility repairs in paved areas, home gardens, minor repairs, maintenance work, installation of fence, sign, telephone, and electric poles and other kinds of posts or poles;
 - (3) Agricultural operations required to adopt and implement an individual agriculture water quality plan pursuant to the requirements set forth in the Kentucky Agriculture Water Quality Act (KRS 224); and
 - (4) Usual and customary site investigations, such as geotechnical explorations, clearing for surveying work, monitoring wells and archaeological explorations, responsible for EPSC measures for land disturbance activity on the individual lot or parcel until the City determines that 80% build-out of the development has been reached.
 - (5) Building improvements on existing residential dwellings (garages, additions, porches, etc.)
- D. The City may exempt, on a project-by-project basis, other minor land disturbance activities not specifically identified in the exemptions above.

3.3 EPSC REQUIREMENTS

NOTE: Complying with the provisions of this Ordinance and issued EPSC Permit does not exempt the Permittee from obtaining coverage from the Kentucky Division of Water (KDOW) under the KPDES Storm Water General Permit for storm discharges related to construction activities that disturb one (1) acre or more. The Permittee is still required to obtain coverage under the KPDES Storm Water General Permit and shall provide a copy of the Notice of Intent filed with KDOW to the Approving Agency.

A. Plan Requirements

Sites where land disturbance activities are proposed will require an EPSC Plan prepared by an Engineer licensed to practice in the Commonwealth. The EPSC Plan is a site specific document and shall include erosion prevention measures, sediment control measures, and other site management practices necessary to prevent the discharge of sediment and other pollutants into waters of the Commonwealth. The owner/developer/contractor shall perform all clearing, grading, drainage, construction and development in strict accordance with the approved EPSC Plan and this Ordinance.

The EPSC Plan shall include the following information in the order listed:

1. The name, address, and telephone number of the owner and/or developer of the property where the land disturbance activity is proposed;
2. Site Description – At a minimum the following information shall be described:
 - a. Function of the project,
 - b. A chronological construction schedule and time frame, at a minimum, for the following construction activities:
 - i. Clearing and grubbing,
 - ii. Construction of erosion control devices,
 - iii. Installation of permanent and temporary stabilization measures,
 - iv. Excavation and filling operations
 - v. Building, parking lot and site construction,
 - vi. Establishment of final grade, landscaping, or stabilization, and
 - vii. Removal of temporary erosion control devices.
 - c. Total acreage of the site and estimated acreage to be disturbed by construction related activities, and
 - d. Description of the current water quality classification of the receiving water(s).
3. Site Map of sufficient scale to depict the following:
 - a. Property boundary of the project,
 - b. Proposed drainage patterns and slopes after grading located on topography with a minimum of two (2) feet intervals,
 - c. Identify all disturbed areas including fill and borrow areas,
 - d. Locations and types of sediment control measures, erosion control measures, planned stabilization measures, and other site management practices,
 - e. Location of surface waters, wetlands, riparian zones, 100 year floodplain, and karst features (ie sinkholes, springs),
 - f. Location of storm drainage system, including quantities of flow and site conditions around all points of surface water discharge from the site,
 - g. Location(s) of discharge point(s),
 - h. Locations of equipment storage areas and material(s) storage areas,
 - i. Location of concrete washout areas and waste management areas, and
 - j. Indication of scale used.
4. Description and location of any discharges associated with industrial activity other than construction.

5. Clear documentation of all erosion prevention measures, sediment control measures, and other site management measures utilized to reduce pollutants from stormwater discharges associated with the construction site and maintain compliance with the permit. Any BMPs may be selected provided that they are proven to be equally or more effective than the equivalent best management practices as contained in the Kentucky Erosion Prevention and Sediment Control Manual and Field Guide.
6. Maintenance of all erosion and sediment control measures:
 - a. A maintenance schedule shall be provided which maintains all erosion and sediment control measures in an effective, operating condition, and
 - b. All erosion and sediment control measures identified during inspections, as not functioning properly shall be repaired before the next storm event.
7. Identify appropriate pollution prevention measures for eligible non-stormwater components authorized by the current KPDES general permit for construction activities, when combined with stormwater discharges associated with construction activity.
8. Permittee conducted inspections:
 - a. The Permittee shall provide to the City regular inspection reports of the site at the intervals as required by the City. Such intervals shall include, but is not limited to, the following:
 1. Within 24 hours after any storm event of 0.5 inches or greater.
 2. Once every calendar month in areas that have received temporary or final stabilization.
 3. Construction entrances and exits shall be inspected *daily* and the permittee shall take necessary steps to remove mud and dirt from public roadways as needed. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment must be redistributed or disposed of in a manner that is in compliance with all applicable statutes and rules.
 - b. Inspections shall be performed by City approved Erosion Control Inspectors and said inspections shall include at a minimum:
 - i. A visual inspection to determine if stormwater measures are properly installed, properly maintained, and performing as designed; and
 - ii. If excessive pollutants are entering the drainage system.
 - c. Inspection reports shall include at a minimum:
 - i. Date of inspection,
 - ii. Name of inspector and company represented,
 - iii. Pertinent weather information including current conditions and conditions since the last inspection,
 - iv. Location(s) of any pollutant discharges,
 - v. Locations of any stormwater management measures that require maintenance,
 - vi. Locations of any stormwater management measures that were inadequate or failed,
 - vii. Locations requiring any additional stormwater management measures,
 - viii. Identify any actions taken in response to inspection findings,

- ix. Identify any incidents of non-compliance with the EPSC,
 - x. Signed and certified in accordance with the signatory requirements in 401 KAR 5:065.
- d. A copy of each inspection report shall be kept at the job site at all times and a copy shall be filed with the City of Somerset.
9. It shall be noted in the EPSC Plan that revisions shall be made whenever erosion prevention measures, sediment control measures, or other site management practices are significantly modified in response to the project.
10. Signature Requirements and Availability:
- a. The EPSC Plan shall be signed and certified in accordance with the signatory requirements in 401 KAR 5:065.
 - b. A current copy of the EPSC Plan shall be readily available at the construction site from the date of project Notice of Initiation (NOI) to the date of Notice of Termination (NOT).
11. All other requirements of an EPSC Plan as defined in the current KPDES general permit for construction activities.
- B. Design requirements.
1. The design, testing, installation, and maintenance of erosion prevention and sediment control operations and facilities, as well as site waste management, shall adhere to the criteria, standards, and specifications as set forth in the City's "Regulations & Specifications Pertaining to Roadway and Drainage Design" manual which shall be adopted through the executive authority's approval as administrative regulations. Upon approval of the Executive Authority of the City, the manual may be updated and revised as needed on a periodic basis and the City shall ensure that a current manual be made available to the public for review at all times.
- C. Requirements for Individual lots when less than 1 acre is disturbed, and the lot/parcel is *not part of a Common Plan of Development* as described above and elsewhere in this Ordinance.
1. Although no EPSC permit is required for individual lots disturbing less than one (1) acre which are not part of a larger common plan of development, a formal storm water review will be required prior to the issuance of a Building Permit by any agency authorized to issue such permits in the Commonwealth. All storm water management measures necessary to comply with this Ordinance Section must be implemented prior to a Building Permit being issued.
2. The following information must be submitted to the City of Somerset for review and approval prior to the issuance of a Building Permit for an individual lot as described above:
- a. A site location plan showing the individual lot and all adjacent lot dimensions, elevations, drainage patterns, and swales.
 - b. An erosion and sediment control plan which at a minimum includes the following measures:

- i. Installation and maintenance of a stable construction site entrance/exit.
 - ii. Installation and maintenance of appropriate perimeter sediment control measures prior to land disturbance.
 - iii. Sediment discharge and tracking from a lot must be minimized throughout the land disturbing activities until permanent stabilization has been achieved.
 - 1. Sediment that is either tracked or washed onto roads must be cleaned. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment must be redistributed or disposed of in a manner that is in compliance with all applicable statutes and rules.
 - 2. Adjacent lots disturbed by an individual lot operator must be repaired and stabilized with temporary or permanent surface stabilization.
 - iv. Self-monitoring program, including a plan and procedures.
 - v. Certification of Compliance stating that the individual lot plan is consistent with the storm water management criteria identified within this Ordinance.
3. The individual lot operator is responsible for the installation and maintenance of all erosion and sediment control measures until the site is stabilized.

3.4 EPSC PERMIT SUBMITTAL REQUIREMENTS:

- A. Land disturbance activities subject to the provisions of this Chapter shall not take place without an authorized EPSC Permit.
- B. Required submittal information may include, but is not limited to, the following:
 - 1 Land disturbance activities < 1 acre and not part of a common plan of development
 - Completed Plot Plan
 - Plan Review Fee
 - 2 Land disturbance activities > 1 acre or < 1 acre and part of a common plan of Development
 - Permit Application
 - EPSC Plan
 - Plan Review Fee
- C. Plan Review Fees for the review of storm water related plans shall be set forth in the City's "Regulations & Specifications Pertaining to Roadway and Drainage Design" manual as adopted and approved by the Executive Authority of the City.
- D. Applications submitted under this Chapter shall contain the information required by the City and shall be made on any form for which the City provides for such purposes. The Application Form shall be set forth in the City's "Regulations & Specifications Pertaining to Roadway and Drainage Design" manual as adopted and approved by the Executive Authority of the City.

3.5 EPSC PERMIT REVIEW AND APPROVAL PROCESS

The Approving Agency will review each application for an EPSC Permit to determine its conformance with the provisions of this Ordinance. Within 30 calendar days after receiving a complete application, EPSC plan, and permit review fee, the Approving Agency shall, in writing:

- A. Approve the application and EPSC plan and issue the EPSC Permit;
- B. Approve the application and EPSC plan subject to such reasonable conditions as may be necessary to secure substantially the objectives of these Regulations, and issue the EPSC Permit subjected to these conditions; or
- C. Disapprove the permit application and EPSC plan, indicating the reason(s) and procedure for submitting a revised application and/or submission.

NOTE: The 30-day review period shall begin anew for re-submittals that were previously submitted and determined to be incomplete or disapproved.

3.6 STORM WATER BMP PLAN REVIEW REQUIREMENTS

On development or redevelopment projects where the Approving Agency has determined storm water BMP's are required, the developer shall submit plans of the proposed BMPs prepared by an Engineer licensed to practice in the Commonwealth. The plans shall be drawn to an appropriate scale and shall include plan and profile views, sections, details, notes and other information necessary for the installation of the BMP.

3.7 STORM WATER BMP PLAN REVIEW AND APPROVAL PROCESS

The Approving Agency will review the storm water BMP plan to determine its conformance with the provisions of this Ordinance. Within 30 calendar days after receiving the plans and plan review fee, the Approving Agency shall, in writing:

- A. Approve the plans; or
- B. Approve the plans subject to such reasonable conditions as may be necessary to secure substantially the objectives of this Ordinance, and approve the plans subject to these conditions; or
- C. Disapprove the plans, indicating the reason(s) and procedure for submitting a revised plan.

NOTE: The 30-day review period shall begin anew for re-submittals that were previously submitted and determined to be incomplete, or previously submitted and disapproved.

3.8 AS-BUILT DRAWING REQUIREMENTS

- A. Prior to issuance of a certificate of occupancy, recording of the final plat or final release of any bonds or other fiscal security, the project developer and/or contractor shall submit to the Approving Agency and the Agency must approve the as-built condition (including: invert elevations, size, shape and location) of critical storm water management features.
- B. The volume, slopes, configuration, condition and topographic information of all storm water management practices shall be certified by a licensed professional engineer. This information shall be provided to the Approving Agency, in the form of an as-built drawing in electronic form acceptable to the Approving Agency. The as-built certification shall indicate if final conditions are consistent with, or exceed, the EPSC permit provisions.

This section provides a set of guidelines and standards to ensure all as-built submittals in digital format are compatible with the GIS system of the Approving Agency. The goal of these requirements is not to burden the engineering, development and design community, but to standardize submittals to ensure quality and compatibility. The standards required include, but are not limited to, the following:

- 1 The media will be legibly labeled with project name and phase; submittal number, file creation date; and contact information (name and phone number).
 - 2 As-built drawings shall be submitted in an electronic format of either AutoCAD DWG or MicroStation format.
 - 3 Submittals shall be spatially referenced to NAD 83, Kentucky Stateplane Coordinate System, South Zone, U.S. Survey feet and tied to Grant corners, USGS or HARN monumentation as available.
 - 4 Elevations shall be referenced to the NAVD88 vertical datum.
 - 5 Drawing elements shall reside in the primary drawing file and not include cells, nodes, blocks or reference files (x-refs).
 - 6 All features included in the CAD drawing must be drawn on their own layer and defined in the attribute table by a field named "LAYER" (i.e. manholes should be attributed as MH in the field "LAYER").
 - 7 Metadata, or data documentation, should be included with each submittal. The metadata should include information outlining the naming convention of each drawing file included in the submittal, a description of each layer in the drawing including names and descriptions of each submitted file, the projection used to define the coordinate information used in the digital submittal, a reference to the record number for the plans, date of study/revision date, and any other notes pertinent to submittal.
- C. If it is determined that the information provided in the as-built drawings or certification of the site improvements and storm water facilities do not meet or exceed the Storm Water Management Program for the City of Somerset, the Approving Agency reserves the right to withhold any bond, fiscal security or certification of occupancy, until such time the deficiency is corrected.
- 1 If it is determined that information provided in the as-built drawing, certification, inspection or survey of the site do not meet or exceed the EPSC permit provisions, other enforcement mechanisms, as identified within this ordinance, may be applied to the permittee or the person certifying the as-built information.
 - 2 If upon inspection by the Approving Agency it is determined that there is an item that must be addressed to receive acceptance of site conditions, then the permittee shall be required to continue inspections and maintenance as described in the EPSC permit.

3.8 INSPECTIONS

- A. The City of Somerset or their designee shall make periodic inspections of land disturbing activities subject to this Ordinance at various stages of construction in order to ensure compliance with the approved EPSC Plan and verify that selected control measures are adequate.
- B. The Permittee shall be self-policing and shall correct or remedy any EPSC measures that are not effective or functioning properly at all times during the various phases of construction.
- C. The Permittee shall provide inspections, at a minimum, at the following stages:
 - 1. Completion of perimeter erosion and sediment controls
 - 2. Completion of cleaning and grading.
 - 3. Installation of temporary erosion controls.
 - 4. Completion of final grading and ground stabilization.
- D. The City of Somerset may increase or decrease the number of required inspections as deemed necessary to ensure an effective EPSC Plan and shall have the right to enter the property of the Permittee without notice pursuant to this Ordinance.

3.9 ENFORCEMENT

- A. The City of Somerset shall enforce the regulations contained in this Ordinance. Therefore the City and/or their designee may issue a *stop-work order* for an entire project, or any specified part thereof, if any of the following conditions are determined to exist by the City and/or their designee:
 - 1. Any land disturbance activity regulated under this Ordinance is being undertaken without an EPSC Permit.
 - 2. The EPSC Plan is not being fully implemented.
 - 3. Any of the conditions of the EPSC Permit are not being met.
 - 4. EPSC Plan is determined to be ineffective.
- B. For the purposes of this section, a stop-work order is validly posted by:
 - 1. Posting a copy of the stop-work order on the site of the land disturbing activity in reasonable proximity to a location where the land disturbing activity is taking place; and
 - 2. If an EPSC permit has been issued for a site, providing a copy of the stop-work order by mailing said copy first class mail, postage pre-paid, to the address listed by the Permittee on the EPSC permit; or
 - 3. In the case of work for which there is no authorized EPSC permit, a copy of the order shall be mailed to the person listed as the landowner of the property by the Pulaski County PVA Officer or other authorized official.

- C. If the work is being performed by a person or entity that has obtained an EPSC Permit and the Permittee does not cease the activity or comply with the EPSC Plan or EPSC Permit conditions within five (5) days of posting the stop-work order, the City may revoke the EPSC Permit.
- D. If the landowner or developer where no EPSC permit has been issued does not cease the land disturbance activity for which a stop-work order has been issued, the City Attorney shall be authorized to obtain injunctive relief through a Court of competent jurisdiction.
- E. The City may retract the revocation of an EPSC Permit if the land disturbance activity and site is brought into compliance with these Regulations to the City's satisfaction.
- F. If the public health, safety or nuisance is at stake, time is of the essence to perform any remedial clean-up work or other work to bring the site into compliance with the regulations contained in this Ordinance. The City may begin remedial work immediately without notice of intent in such situations and thereafter bill the cost of such work to the Permittee, or the landowner in violation. This type of work may include, but is not limited to, the cleaning of mud, silt, sediment, and other debris from public streets and drainage systems.
- G. Any Permittee, person, firm, corporation, or agency acting as principal, agent, employee or otherwise, who fails to comply with the provisions of this Ordinance shall be guilty of a Misdemeanor and upon conviction by a Court of competent jurisdiction, shall be punishable by a fine of not less than one hundred fifty dollars (\$150.00) and not more than ten thousand dollars (\$10,000.00), or by imprisonment for not more than ninety (90) days, or both, for each separate offense. Each day a violation of any part of this Ordinance exists shall constitute a separate offense.
- H. If the Permittee, landowner, or developer fails to pay the amount due for the remedial clean-up work, or any other work to bring the site into compliance with this Ordinance, the City Clerk shall enter the amount due on the tax roll and collect said amount as a special assessment against the property where the land disturbance activity and subsequent violation occurred.

CHAPTER 4- POST-CONSTRUCTION STORM WATER MANAGEMENT

4.1 PURPOSE

In addition to the general purposes set forth in Chapter 1 of this Ordinance, the requirements set forth in this Chapter are intended to:

- A. Develop and implement strategies which include a combination of structural and/or non-structural best management practices (BMPs) that prevent or minimize water quality impacts from developments in the City of Somerset's jurisdictional limits; and
- B. To ensure adequate long-term operation and maintenance of BMPs.
- C. To aid in the maintenance of storm water runoff characteristics, reduction of stream bank and channel erosion, reduction of siltation and sedimentation in the community waters and waters of the Commonwealth, and lowering the discharge of pollutants from impervious areas.

4.2 APPLICATION

This Chapter applies to the development or redevelopment of land for residential, commercial, industrial, or institutional use. It does not apply to agricultural land management practices *with the exception of illicit discharge regulations as set forth in this Ordinance and all other applicable law.*

4.3 IMPLEMENTATION OF BMPs

- A. The City is responsible for the implementation and enforcement of this Ordinance pursuant to KRS Chapter 83A and all other applicable law.
- B. The City, by and through the Executive Authority or his/her designee, may perform the following functions in order to implement and enforce this Ordinance:
 - 1. Adopt, and update as needed, a manual which shall be known as the City's "Regulations & Specifications Pertaining to Roadway and Drainage Design" for use with both development, and redevelopment, projects and which addresses quantitative controls for increased volume and rate of surface runoff as well as qualitative controls that reduce or eliminate pollutants carried by runoff . The manual shall also include, but is not limited to, regulations pertaining to the following:
 - a. Policies, procedures, standards, and criteria relating to storm water runoff quality and quantity;
 - b. Establish design criteria and standards for construction site waste control, erosion protection, and sediment control related to land disturbance activities;
 - c. Provide erosion protection and sediment control training for City officers, and/or employees, as needed to implement and enforce this Ordinance; and
- C. The City, by and through the Executive Authority, may enter into agreements with a landowner for long-term operation and maintenance of Best Management Practices (BMPs) if it is found to be in the City's best interests to do so. All such agreements must be prepared by the City Attorney, or other attorney licensed to practice in the Commonwealth, and signed by the proper authorities.

4.4 STORM WATER MANAGEMENT REQUIREMENTS

- A. This Ordinance requires the design and implementation of structural and non-structural BMPs for new and redevelopment projects. Said designs shall be based on the Water Quality Standard established by the City as set forth in the "Regulations & Specifications Pertaining to Roadway and Drainage Design" manual described above, and shall include designs that provide effective treatment of runoff in post-developed condition. Designs and supporting performance analyses must be submitted to the City with the construction plans for new or redevelopment projects. Redevelopment projects are required to meet 20% of the local water quality standard.
- B. The design of structural BMPs shall be performed by an Engineer licensed to practice in the Commonwealth in the field of civil works.

- C. The storm water BMPs shall become a part of the development's site plan and may include the BMPs identified more specifically in Section 4.5 below.

4.5 STORMWATER BEST MANAGEMENT PRACTICES (BMPs)

Stormwater BMPs shall be utilized to address runoff volume and rate, and remove pollutants. These BMPs may include detention facilities, extended detention basins, retention facilities, hydrodynamic separators, first flush basins, infiltration trenches, grass swales, filter strips, stormwater wetlands, natural filtration areas, sand filters, pervious pavements, and rain-gardens. The Water Quality Standard requires, in combination or alone, management measures that are designed, built, and maintained to treat, filter, flocculate, infiltrate, screen, evapo-transpire, harvest and reuse stormwater runoff, or otherwise manage the stormwater runoff quality. Additional information on these practices can be obtained at <http://cfpub.epa.gov/npdes/stormwater/menuofbmps/>.

4.6 STREAM CORRIDOR PROTECTION

Stream corridor protection BMPs shall be utilized to protect designated streams and waterways through conservation methods. These methods may include buffer strips, greenways, vegetated channels, stream bank stabilization and restoration.

4.7 IMPERVIOUS AREA RUNOFF CONTROLS

Impervious area runoff controls shall be utilized to address high levels of runoff quantity and quality associated with high-density developments. These controls may include preservation of open space, minimizing impervious surfaces, porous pavement, utilization of grass swales instead of curb and gutter, reduced pavement widths and similar measures.

4.8 OUTLET CONROLS

Discharge control BMPs shall be utilized to provide flow attenuation for post-development runoff. These BMPs may include detention facilities, extended detention basins, retention facilities and artificial wetlands.

4.9 RETROFIT IMPROVEMENTS

If a new development or redevelopment project contributes runoff to downstream receiving waters that are impaired or infrastructure that does not have sufficient capacity, the Issuing Authority may, at its discretion, require stormwater management controls greater than the minimum required by this chapter. Drainage calculations shall be provided by the developer's Engineer to demonstrate the integration with the downstream hydraulic system.

4.10 STORMWATER IMPROVEMENT FEE

The Approving Agency, at its discretion, may require the developer of a new development or redevelopment project to pay a storm water improvement fee in lieu of the installation of storm water BMP improvements.

4.11 STORMWATER BMP PLAN

Requirements related to a storm water BMP Plan are set forth in the City's "Regulations & Specifications Pertaining to Roadway and Drainage Design" manual.

4.12 MAINTENANCE REQUIREMENTS

- A. Any stormwater management facility or BMP which services individual property owners shall be privately owned and maintained consistent with provisions of this chapter.
- B. Any stormwater management facility or BMP which services an individual residential subdivision in which the facility or BMP is within designated open areas or serves as an amenity with an established homeowners association shall be privately owned and maintained consistent with provisions of this chapter.
- C. Any stormwater management facility or BMP which services commercial and industrial development shall be privately owned and maintained.
- D. All regional stormwater management control facilities proposed by the owners, if approved and accepted by the city for dedication as a public regional facility, shall be publicly owned and/or maintained. All other stormwater management control facilities and BMPs shall be privately owned and/or maintained unless accepted for maintenance by the city.
- E. The city may require dedication of privately owned stormwater facilities, which discharge to the city storm water system.
- F. When a stormwater quality BMP serves more than one (1) parcel, a home or property owners' association with a binding contract for the purpose of operation and maintenance is required. The owners association shall be responsible for operation and maintenance as directed by this chapter.

4.13 OPERATION AND MAINTENANCE AGREEMENTS

The city shall require all new development and redevelopment to establish and enter into a long-term operation and maintenance agreement and maintenance plan with approved management practices for all stormwater quality BMPs.

- A. Operation and maintenance agreements shall be:
 - 1. In the format requested by the City of Somerset;
 - 2. Noted on the final plat with the appropriate notation of the particular lot(s);
 - 3. Included with property ownership title documents and shall be binding on the owner, its administrators, executors, assigns, heirs, and any other successors in interest;
 - 4. Allow the MS4 or its designee, to conduct inspections of the management practices being performed;
 - 5. Allow the MS4 or its designee to perform necessary maintenance or corrective actions from BMPs neglected by the property owner; and

6. Allow the MS4 to recover costs from the property owner/operator when the owner/operator has not performed the necessary maintenance.
- B. The maintenance plan shall:
1. Be developed to ensure that the stormwater quality BMP(s) is (are) kept functional;
 2. Specify schedules for inspections and techniques for operation and maintenance including vegetation clearing or mowing and removing accumulated trash, debris, sediment, pollutants and other forms of pollution.
- C. Stormwater detention and retention maintenance.
Care must be taken to ensure that any required facilities do not become nuisances or health hazards. Detention and retention facilities should be designed to require minimal maintenance, and maintenance expectations must be clearly stated in the long-term operation and maintenance agreement.

4.14 ENFORCEMENT

- A. An Administrative Official, designated by the City of Somerset, shall enforce the regulations found in this Ordinance. When the City determines, by and through said Administrative Official, that a person, company, developer, or any other entity has violated a prohibition, or has failed to meet a requirement of this Chapter, the Administrative Official may order compliance by written citation to the Responsible party.
- B. A citation may be posted for the project if any of the following conditions exist:
- Structural and/or non-structural BMPs are not being installed or maintained per manufacturer's specifications and/or City of Somerset;
 - Construction is not in compliance with the approved Stormwater BMP Plan; or
 - Any of the conditions of this Ordinance are not being met.
- C. If abatement of a violation and/or restoration of affected BMP is required, the citation shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the responsible party fail to remediate within the established deadline, the work will be done by the City of Somerset and the expense thereof shall be charged to the responsible party.
- D. For violations where no Operation and Maintenance Agreement has been recorded, the City of Somerset will notify the property owner or Responsible Party and cooperate for resolution prior to enforcement. Should the Responsible Party not provide stormwater structure maintenance, or demonstrates a history of non-compliance of the same nature, the City of Somerset may request the City Attorney to seek injunctive relief from a Court of competent jurisdiction.
- E. If the violation has not been corrected pursuant to the requirements set forth in the Citation within 10 days of the decision of the City, by and through the above referred to Administrative Official, then the City shall enter the site in violation and is 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 City and/or their designee to enter upon the premises for the purposes set forth above.

- F. Within 30 days after abatement of the violation by the City of Somerset, the City shall notify the property owner of the premises of the cost of abatement, including administrative costs. If the amount due is not paid within 10 days, the City Clerk shall enter the amount due on the tax roll and collect as a special assessment against the property which shall constitute a lien.
- G. The City of Somerset is authorized to require immediate abatement of any violation of this Ordinance that constitutes an immediate threat to the health, safety, or well-being of the public. If any such violation is not abated immediately as directed, the City of Somerset is authorized to enter onto private property and to take any and all measures required to remediate the violation. Any expense related to such remediation undertaken by the City shall be fully reimbursed by the property owner and/or Responsible Party.
- H. It shall be unlawful for any person to violate any provision, or fail to comply with any of the provisions, of this Ordinance. A violation of, or failure to comply with, any of the requirements in this Ordinance shall constitute a Misdemeanor and upon conviction by a Court of competent jurisdiction thereof shall be punishable by a fine of not less than one hundred and fifty dollars (\$150.00) and not more than ten thousand dollars (\$10,000.00), or by imprisonment for not more than ninety (90) days, or both, for each separate offense. Each day a violation of any part of this Chapter exists shall constitute a separate offense.

SECTION III.

1. SEVERABILITY.


IF ANY SECTION OF THIS ORDINANCE, INCLUDING BUT NOT LIMITED TO, ANY SECTION, SUBSECTION, PARAGRAPH, SENTENCE, CLAUSE, PHRASE, OR ANY OTHER PORTION OF THIS ORDINANCE, IS DECLARED ILLEGAL OR UNCONSTITUTIONAL, OR OTHERWISE INVALID BY A COURT OF COMPETENT JURISDICTION, SUCH DECLARATION SHALL NOT AFFECT THE REMAINING PORTIONS HEREOF.

2. EFFECTIVE DATE OF ORDINANCE PROVISIONS.

THIS ORDINANCE SHALL TAKE EFFECT AFTER ITS PASSAGE AND PUBLICATION AS REQUIRED BY LAW.

FIRST READING: March 24, 2014 SECOND READING: April 14, 2014

APPROVED: 
EDWARD R. GIRDLER, MAYOR

ATTEST: 
DAVID GODSEY, CITY CLERK

