

BILL NO.: 8799

ORDINANCE NO.: 8799

AN ORDINANCE IN RELATION TO REPEALING, IN ITS ENTIRETY, "ARTICLE IV, DIVISION 5, LAND DISTURBANCE", "ARTICLE V, WATERSHED PROTECTION", AND "ARTICLE VI, STORM WATER MANAGEMENT", OF CHAPTER 28 OF THE MOBERLY CITY CODE AND ADOPTING A NEW "ARTICLE V, STORM WATER MANAGEMENT" OF CHAPTER 28 OF THE MOBERLY CITY CODE.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MOBERLY, MISSOURI, to-wit:

SECTION ONE: Article IV, Division 5 "Land Disturbance" of Chapter 28 of the Moberly City Code comprised of Sections 28-164 through 28-171 are hereby repealed; Article V "Watershed Protection" and Article VI "Stormwater Management" of Chapter 28 of the City Code of Moberly are hereby repealed and new Article V, Stormwater Management, Division I. "General Provisions" comprised of Sections 28-185 through Sections 28-187; Division 2. "Illicit Discharge" comprised of Sections 28-188 through Section 28-206; Division 3. "Land Disturbance", Sections 28-207 through 28-214; Division 4. "Post-Construction", Sections 28-215 through 28-222 are hereby adopted as set forth in the Exhibits attached to this Ordinance and made part of this Ordinance.

SECTION TWO: This Ordinance shall take effect and be in force from and after its passage and adoption by the Council of the City of Moberly, Missouri, and its signature by the officer presiding at the meeting at which it was passed and adopted.

PASSED AND ADOPTED by the Council of the City of Moberly, Missouri, this 22 day of Jan, 2013.



Presiding Officer at Meeting

ATTEST:

DK Galloway

City Clerk

City Council
 City of Moberly

Agenda Item Number: 1-17
 Department: Public Utilities
 Date: January 22, 2013

Agenda Summary

Agenda Item: An Ordinance In Relation To Repealing, In Its Entirety, "Article IV, Division 5 - Land Disturbance (Sections 28-164 through 28-171)", "Article IV, Division 6. Illicit Discharges (Sections 28-172 through 28-180.14)" and "Article V. Watershed Protection", And "Article VI. Stormwater Management" Of Chapter 28 Of The City Of Moberly Code And Adopting New "Article V. Stormwater Management" Of Chapter 28 Of The Moberly City Code

Summary: The existing codes pertaining to Land Disturbance and Illicit Discharge are placed in Article IV Sewer under Billing and Collections and should be moved to Article V relating to Stormwater Management. The purpose of this ordinance is to clean up the code book and to make room for proposed ordinances relating to Stormwater Management.

In addition to moving the existing Land Disturbance ordinance and Illicit Discharge ordinance to their proper place, staff is requesting to adopt Divisions for General Provisions and Post Construction requirements relating to Stormwater Management.

- Outline for new Article V. Stormwater Management should be:
 Division 1. General Provisions, Sections 28-185 through 28-187
 Division 2. Illicit Discharge, Sections 28-188 through 28-206
 Division 3. Land Disturbance, Sections 28-207 through 28-214
 Division 4. Post-Construction, Sections 28-215 through 28-222

Recommended Action: Adopt Ordinance

ATTACHMENTS:		Role Call	Aye	Nay
<input type="checkbox"/> Memo	<input type="checkbox"/> Council Minutes	Mayor		
<input type="checkbox"/> Staff Report	<input checked="" type="checkbox"/> Proposed Ordinance	M__ S__ Riley	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Correspondence	<input type="checkbox"/> Proposed Resolution			
<input type="checkbox"/> Bid Tabulation	<input type="checkbox"/> Attorney's Report	Council Member		
<input type="checkbox"/> P/C Recommendation	<input type="checkbox"/> Petition	M__ S__ Lawrence	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> P/C Minutes	<input type="checkbox"/> Contract	M__ S__ Burton	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Application	<input type="checkbox"/> Budget Amendment	M__ S__ Schaffer	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Citizen	<input type="checkbox"/> Legal Notice	M__ S__ Kimmons	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Consultant Report	<input type="checkbox"/> Other _____		Passed	Failed

ARTICLE V. STORMWATER MANAGEMENT

DIVISION 1. GENERAL PROVISIONS

Sec. 28-185. Purpose and policy.

The ordinance codified in this chapter sets forth uniform requirements related to stormwater activity for the city and enables the city to comply with applicable state and federal laws. The objectives of this article are:

- A. To prevent erosion and sediment from land disturbance activities from creating a nuisance and entering neighboring properties and waters of the state;
- B. To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW or which will pass through the POTW into receiving waters;
- C. To encourage the use of Best Management Practices (BMPs) during construction and post construction activities
- D. To improve the water quality in receiving streams;
- E. To provide for fees and penalties for land disturbance and stormwater permits; and
- F. To enable the city to comply with its Municipal Separate Storm Sewer System (MS4) permit.

This article shall apply to all development, construction, and excavation activity within the city of Moberly, Missouri. This article authorizes the issuance of land disturbance permits, authorizes monitoring, compliance and enforcement activities; establishes administrative review procedures, requires land disturbance inspection and reporting, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

Sec. 28-186. Administration

Except as otherwise provided herein, the Director of Public Utilities shall administer, implement, and enforce the provisions of this article. Any powers granted to or duties imposed upon the director may be delegated by the director to other city personnel.

Sec. 28-187. Abbreviations.

The following abbreviations shall have the designated meanings:

BMP, Best Management Practice

EPA, U.S. Environmental Protection Agency

MDNR, Missouri Department of Natural Resources

MS4, Municipal Separate Storm Sewer System

POTW, Publicly Owned Treatment Works

SWPPP, StormWater Pollution Prevention Plan

DIVISION 2. ILLICIT DISCHARGE

Sec. 28-188. Purpose/intent.

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of Moberly 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 ordinance 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. The objectives of this ordinance are:

1. To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user
2. To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system
3. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance

Sec. 28-189. Definitions

For the purposes of this ordinance, the following shall mean:

Authorized Enforcement Agency means employees or designees of the City of Moberly designated to enforce this division.

Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

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

Construction Activity means activities subject to NPDES Construction Permits. Currently these include construction projects resulting in land disturbance of one (1) acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

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

Illegal Discharge means any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 28-196 of this ordinance.

Illicit Connections means 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-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 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.

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

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

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

Person means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

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

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

Storm drainage system means publicly-owned facilities by which storm water 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 means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater Pollution Prevention Plan (SWPPP) means a document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

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

Sec. 28-190. Applicability.

This division shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

Sec. 28-191. Responsibility for administration.

The City of Moberly shall administer, implement, and enforce the provisions of this division. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Director of Public Utilities to persons or entities acting in the beneficial interest of or in the employ of the agency.

Sec. 28-192. Severability.

The provisions of this division are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this division.

Sec. 28-193. Ultimate responsibility.

The standards set forth herein and promulgated pursuant to this division 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.

Sec. 28-194. Discharge prohibitions.

- (a) *Prohibition of illegal discharges.* No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any 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 to the storm drain system is prohibited except as described as follows:

- (1) The following discharges are exempt from discharge prohibitions established by this division: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, 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, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated - typically less than one (1) ppm chlorine), fire fighting activities, and any other water source not containing pollutants.
- (2) Discharges specified in writing by the authorized enforcement agency 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-storm water 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.

(b) *Prohibition of illicit connections.*

- (1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- (2) 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.
- (3) A person is considered to be in violation of this division if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

Sec. 28-195. Suspension of MS4 access

(a) *Suspension due to Illicit Discharges in Emergency Situations.* The City of Moberly 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 authorized enforcement agency 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.

(b) *Suspension due to the Detection of Illicit Discharge.* Any person discharging to the MS4 in violation of this division may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency 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 authorized enforcement agency.

Sec. 28-196. Industrial or construction activity discharges.

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 Director of Public Utilities prior to the allowing of discharges to the MS4.

Sec. 28-196.1. Monitoring of discharges.

(a) *Applicability.* This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

(b) *Access to facilities.*

- (1) The City of Moberly] shall be permitted to enter and inspect facilities subject to regulation under this division as often as may be necessary to determine compliance with this division. 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 authorized enforcement agency.
- (2) Facility operators shall allow the City of Moberly ready access to all parts 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 storm water, and the performance of any additional duties as defined by state and federal law.
- (3) The City of Moberly shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's storm water discharge.
- (4) The City of Moberly 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.
- (5) 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 Director of Public Utilities and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (6) Unreasonable delays in allowing the City of Moberly access to a permitted facility is a violation of a storm water discharge permit and of this division. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this division.
- (7) If the City of Moberly 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 division, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this division or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

Sec. 28-196.2. Requirements to prevent, control, and reduce stormwater pollutants by the use of Best Management Practices.

The City of Moberly will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal 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 municipal separate storm sewer system. 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.

Sec. 28-196.3. Watercourse protection.

Every person owning property through which a watercourse passes, or such person's lessee, 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 or lessee 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.

Sec. 28-196.4. Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, 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 authorized enforcement agency 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 Director of Public Utilities within three (3) 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.

Sec. 28-197. Enforcement.

(a) *Notice of Violation.* Whenever the City of Moberly finds that a person has violated a prohibition or failed to meet a requirement of this division, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. 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 storm water pollution or contamination hazards and the restoration of any affected property; and
- (5) Payment of a fine to cover administrative and remediation costs; and

(6) The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property are 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.

Sec. 28-198. Appeal of Notice of Violation.

Any person receiving a Notice of Violation may appeal the determination of the Director of Public Utilities. The notice of appeal must be received within fifteen (15) days from the date of the Notice of Violation. Hearing on the appeal before the City Manager or his/her designee shall take place within fifteen (15) days from the date of receipt of the notice of appeal. The decision of the City of Moberly or their designee shall be final.

Sec. 28-199. 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 thirty (30) days of the decision of the municipal authority upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency 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.

Sec. 28-200. Cost of abatement of the violation.

Within fifteen (15) 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 fifteen (15) days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority 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 the city by reason of such violation. The liability shall be paid in not more than twelve (12) equal payments. Interest at the rate of percent per annum shall be assessed on the balance beginning on the first day following discovery of the violation.

Sec. 28-201. Injunction relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this division. If a person has violated or continues to violate the provisions of this division, the authorized enforcement agency 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.

Sec. 28-202. Alternative Compensatory Actions.

In lieu of enforcement proceedings, penalties, and remedies authorized by this division, the City may impose upon a violator alternative compensatory actions such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

Sec. 28-203. 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 division 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.

Sec. 28-204. Criminal prosecution.

Any person that has violated or continues to violate this division shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of one thousand dollars (\$1,000) per violation per day and/or imprisonment for a period of time not to exceed thirty (30) days.

The authorized enforcement agency may recover all attorneys' fees, court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

Sec. 28-205. 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.

Sec. 28-206. Adoption of division.

This division shall be in full force and effect immediately after its final passage and adoption. All prior divisions and parts of divisions in conflict with this division are hereby repealed.

DIVISION 3. LAND DISTURBANCE

Sec. 28-207. Introduction/purpose.

The purpose of this division is to establish controls on activities related to land disturbance through the following objectives:

- (1) To protect the quality of local streams, lakes, and other bodies of water from the effects of increased erosion and sediment discharge.
- (2) To protect the welfare of individuals and their property by reducing the amount of sediment that leaves land disturbance sites.
- (3) To protect the environment and aquatic habitat of fish and other species.
- (4) To reduce the need for maintenance of storm sewers and ditches as well as the dredging of lakes and ponds.

Sec. 28-208. Definitions.

(a) *Land disturbance* includes the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity that bares soil or rock or involves the diversion or piping of any natural or manmade watercourse.

(b) *Erosion Control* is any method, including the use of best management practices, which reduces the potential for soil particles to become dislodged and carried by wind or water.

(c) *Sediment control* is any method, including the use of best management practices, used to capture or contain sediment particles after they have been eroded.

(d) *Land disturbance permit* refers to the permit obtained from the Moberly Public Utilities Department prior to commencement of land disturbance activities as defined in the most current land disturbance manual.

(e) *Moberly Public Utilities* refers to the department that has the authority to manage, enforce, and regulate land disturbance activities within the City of Moberly.

(f) *Land disturbance manual* gives requirements and guidance relating to land disturbance

(g) *Land disturbance field manual* gives requirements and guidance relating to land disturbance, similar to the land disturbance manual, but only addresses field requirements and guidance relating to land disturbance. It is intended to be used by the person performing the land disturbance and not the engineer that develops the plans.

(h) *Land disturbance manager* is the person responsible for ensuring that the site is in accordance with the standard land disturbance permit as well as performing site inspections and maintaining the required records.

(i) *Stop work order* refers to a written notice posted at the site of the land disturbance by the city's land disturbance inspector that requires land disturbance activities cease until requirements of the stop

work order are met and signed stop work order release form is obtained. The stop work order is enforceable by Section 1-12 of the City of Moberly Code.

(j) *Drainageway* is a natural or artificial watercourse, including but not limited to streams, rivers, creeks, ditches, channels, canals, waterways, gullies, ravines, or washes in which water flows in a definite direction or course, either continuously or intermittently, including any area adjacent to it that is subject to inundation by reason of overflow or floodwater and meets any of the following conditions:

- Provides for conveyance of stormwater runoff from an upstream property or development.
- Defined as “waters of the United States” by the U.S. Army Corps of Engineers.
- Supports riparian area or sensitive habitat.
- Tributary area equal to or greater than twenty (20) acres.
- Alternation or filling will change the manner in which runoff is discharged onto a downstream property and potentially results in a negative impact to that downstream property.

Sec. 28-209. Permits/requirements.

- (a) The City of Moberly shall administer and enforce this division with the issuance of land disturbance permits. Requirements and guidance for the land disturbance permit are contained within the most current edition of the land disturbance manual with a supplemental land disturbance field manual.
- (b) Before conducting land disturbance activities that are equal to or greater than one (1) acre, or are part of a larger common plan of development or sale that will disturb one (1) or more acres over the life of the project within the City of Moberly limits, a land disturbance permit must be obtained.
- (c) Before conducting land disturbance activities when installing utilities with one thousand (1,000) feet or more of length within the City of Moberly limits, a land disturbance permit must be obtained.
- (d) Before conducting land disturbance activities located within one hundred (100) feet or more of a drainage way within the City of Moberly limits, a land disturbance permit must be obtained.
- (e) Before conducting fill or excavation of fifty (50) or more cubic yards of material, not related to building of a detached single family residential unit within the City of Moberly limits, a land disturbance permit must be obtained.
- (f) Land disturbance activities less than one (1) acre in size in the City of Moberly may require erosion and sediment control measures and a land disturbance permit if Moberly Public Utilities deems it necessary to prevent sediment and erosion from occurring.
- (g) The land disturbance manual with supplemental land disturbance field manual may be updated and expanded from time to time at the discretion of the City of Moberly based on improvements in engineering, science, monitoring, and/or local maintenance experience.

- (h) In addition to the requirements set forth by the City of Moberly, all other local, state, and federal permits, ordinances, laws, and regulations relating to land disturbance must be followed. Any construction or land disturbance activity that will result in the disturbance of one (1) acre or more must obtain a land disturbance permit from the Missouri department of Natural Resources.

Sec. 28-210. Fees.

Fees are shown in the appendix of the most current version of the Land Disturbance Manual.

Sec. 28-211. Inspections.

All land disturbance activities shall be subject to inspection by the City of Moberly. Representatives of the City of Moberly shall have the right to enter upon any land for the purpose of making an inspection or acquiring information to determine whether or not the property conforms to the requirements of this division.

Sec. 28-212. Enforcement.

The Moberly Public Utilities Department of the City of Moberly shall have the authority and responsibility to manage, enforce, and regulate land disturbance activities within the city of Moberly.

Sec. 28-213. Violations.

- (a) All persons are required to obtain a land disturbance permit before performing any activities that are stated in section 28-209 of this Code. If land disturbance activities are performed without a permit, but require a permit, or a level I violation occurs on a permitted site the Moberly Public Utilities Department will place a posted stop work order at the location of the land disturbance activity. This stop work order revokes or suspends the land disturbance permit for permitted sites and stops work on permitted and non-permitted sites. The order shall state what is required prior to continuing the land disturbance activity and the time frame in which these actions must occur.

In the case that the permit is revoked, reapplication for a permit is required and for suspensions the permittee must obtain a signed stop work order release from the Moberly Public Utilities Department prior to commencing land disturbance activities.

If the stop work order is removed by anyone other than the City of Moberly, and/or the land disturbance act continues without following the requirements of the stop work order, then the person performing the work and the owner of the property are in violation of the land disturbance code.

If the land disturbance activities stop after the stop work order is posted at the site but actions required by the order are not followed within the time frame stated on the order, then the owner of the property is in violation of the land disturbance code.

If the property owner chooses stop work and not obtain or renew a permit, the property owner will still be required to reestablish the original topography and vegetation of the site prior to the land disturbance activities in a form amenable to the stormwater coordinator within the timeframe stated on the stop work order. If the property owner does not reestablish the site to standard and time stated in the order, the property owner will be in violation of this land disturbance code.

Any person violating any of the provisions of this division shall be deemed guilty of a misdemeanor and each day during which any violation of the provisions of this division is committed, continued, or permitted, shall constitute a separate offense. Upon conviction of any such violation, such person, partnership, or corporation shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) for each offense. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this division shall be required to bear the expense of restoration.

- (b) The City of Moberly may revoke a land disturbance permit if failure to comply with any term, condition, limit, deadline or other provision of the land disturbance permit occurs.
- (c) The City of Moberly may recover all attorneys' fees, court costs, stabilization of disturbed areas, cleanup costs, and other expenses associated with enforcement of this division through required fiscal securities and any other forms available.

Sec. 28-214. Appeal of notice of violations.

Any person receiving a notice of violation may appeal the determination of the Moberly Public Utilities Department. The notice of appeal must be received within fifteen (15) days from the date of the notice of violation in written form. Hearing on the appeal before the director of public utilities shall take place within fifteen (15) days from the date of receipt of the notice of appeal. The decision of the director of public utilities shall be final.

DIVISION 4. POST CONSTRUCTION

Sec. 28-215. Introduction/purpose.

The purpose of this division is to establish controls on the quantity and quality of stormwater released from post construction developments through the following objectives:

- (a) To protect against increased flooding and decreased water quality of downstream areas and streams due to effects of development.
- (b) To protect the welfare of individuals and their property by reducing the effects of development.
- (c) To protect the environment and aquatic habitat of fish and other species.

Sec. 28-216. Definitions.

- (a) *Administrative Variance* refers to variances that are considered by the City of Moberly to be complicated and which will require a more extensive review. These administrative variances shall be reviewed by the City Engineer.
- (b) *Applicant(s)* refers to the owner and contractor who complete and sign the Post-Construction Stormwater Permit application.
- (c) *Best Management Practice (BMP)* referred in this division as a measure implemented to control stormwater.
- (d) *Construction* refers to the implementation of a proposed plan of improvements by a contractor that may include excavating, site grading, utility work, paving, building, and other activities that may contribute to the disturbance of land and elevated levels of erosion and sediment.
- (e) *Design Engineer* refers to the professional engineer responsible for the design of the Post-Construction Stormwater BMPs.
- (f) *Development* refers to the process of creating new residential, commercial, office, or other land uses through the process of construction.
- (g) *Drainageway* is any natural or artificial watercourse, including but not limited to streams, rivers, creeks, ditches, channels, canals, waterways, gullies, ravines, or washes in which water flows in a definite direction or course, either continuously or intermittently, including any area adjacent to it that is subject to inundation by reason of overflow or floodwater and meets any of the following conditions:
 - Provides for conveyance of stormwater runoff from an upstream property or development.
 - Defined as "waters of the United States" by the U.S. Army Corps of Engineers.
 - Supports riparian area or sensitive habitat.
 - Tributary area equal to or greater than 20 acres.
 - Alteration or filling will change the manner in which runoff is discharged onto a downstream property and potentially results in a negative impact to that downstream property.

- (h) *Erosion* is the process by which the land surface is worn away by the action of wind, water, ice, and gravity.
- (i) *Hydrograph* is the distribution of runoff over time.
- (j) *Inspector* refers to the City representative who visits sites to check for compliance with the Post-Construction Stormwater Permit.
- (k) *Moberly Public Utilities* refers to the department within the City of Moberly that has the authority and responsibility to manage, enforce, and regulate stream buffer activities within the City of Moberly.
- (l) *Permittee(s)* refers to the owner and contractor who obtain a Post-Construction Stormwater Permit.
- (m) *Post-Construction Stormwater Permit Process* refers to the process applicants proceed through to obtain a Stormwater Permit from the City of Moberly.
- (n) *Post-Construction Stormwater Program* refers to the program developed and administered by the City of Moberly to regulate the quantity and quality of stormwater within the unincorporated limits of Moberly.
- (o) *Pre-Development Condition* refers to the natural condition of a site before development occurred.
- (p) *Professional Engineer* refers to an individual currently registered with the Missouri State Board of Registration as a professional engineer, practicing engineering in accordance with state law.
- (q) *Sediment Basin* refers to an impoundment that captures sediment-laden runoff and releases it slowly, providing prolonged settling times to capture coarse and fine-grained soil particles.
- (r) *Seeding and Mulching* consists of seeding disturbed areas with permanent grasses and spreading straw mulch to provide immediate protection against raindrops and wind erosion and, as the grass cover becomes established, to provide long-term stabilization of exposed soils.
- (s) *Staff Variance* refers to a variance that is considered by the City of Moberly to be minor in nature.
- (t) *Stormwater* means runoff generated as a result of a precipitation event.
- (u) *Stormwater Permit* refers to the permit obtained from the City of Moberly prior to commencement of land-disturbing activities as defined in the Moberly *Post-Construction Stormwater Manual*.
- (v) *Stormwater Pollution Prevention Plan (SWPPP)* refers to the complete package of required information submitted to the City of Moberly for review and acceptance for a land disturbance permit which include drawings, land disturbance report, report checklist, and Option of Probable Cost Example worksheet.
- (w) *Stormwater Quality Depth (SQD)* is the depth of runoff from a one year 24 hour storm.
- (x) *Stormwater Quality Release Rate (SQRR)* is the discharge that will drain the stormwater quality volume from the detention basin in 24 hours.

- (y) *Stormwater Quality Volume (SQV)* is the total volume of runoff from a one year 24 hour storm.
- (z) *Time of Concentration (t_c)* is the time it takes for runoff to flow from the hydraulically most remote point in the watershed to the point of analysis.

Sec. 28-217. Permits/requirements.

- (a) The City of Moberly shall administer and enforce this division with the issuance of Post-Construction Stormwater Permits. Requirements and guidance for the Post-Construction Stormwater Permits are contained within the most current edition of the *Post-Construction Stormwater Manual*.
- (b) Before conducting development activities that are equal to or greater than one acre, or are part of a larger common plan of development or sale that will develop one or more acres over the life of the project within the City of Moberly limits, a Post-Construction Stormwater Permits must be obtained. Other project requirements for Post-Construction Stormwater Permits are contained within the most current edition of the *Post-Construction Stormwater Manual*.
- (c) Development activities less than one (1) acre in size in the City of Moberly may require Post-Construction Stormwater Permits if Moberly Public Utilities deems it necessary.
- (d) *Post-Construction Stormwater Manual* may be updated and expanded from time to time at the discretion of the City of Moberly based on improvements in engineering, science, monitoring, and local maintenance experience.
- (e) In addition to the requirements set forth by the City of Moberly, all other local, state, and federal permits, ordinances, laws, and regulations of Post-Construction Stormwater must be followed.

Sec. 28-218. Fees.

Fees are shown in the most current version of the *Post-Construction Stormwater Manual*.

Sec. 28-219. Inspections.

All Post-Construction Stormwater BMPs shall be subject to inspection by the City of Moberly. Representatives of the City of Moberly shall have the right to enter upon any land for the purposes of making an inspection or acquiring information to determine whether or not the property conforms to the requirements of this ordinance.

Sec. 28-220. Enforcement.

The Moberly Public Utilities Department of the City of Moberly shall have the authority and responsibility to manage, enforce, and regulate Post-Construction Stormwater activities within the City of Moberly.

Sec. 28-221. Violations.

- (a) All persons are required to obtain a Post-Construction Stormwater Permit before performing any activities that are stated in Section 28-209 of this Code. If activities requiring Post-Construction Stormwater Permit are performed without a permit, but require one, the Moberly Public Utilities Department will place a posted Stop Work Order at the location of the activity. This Stop Work Order stops work on non-permitted sites. The order shall state what is required prior to continuing activity and the time frame in which these actions must occur.

If the Stop Work Order is removed by anyone other than the City of Moberly, and/or the act continues without following the requirements of the Stop Work Order, then the person performing the work and the owner of the property are in violation of the Post-Construction Stormwater code.

If the land disturbance activities stop after the Stop Work Order is posted at the site but actions required by the order are not followed within the time frame stated in the order, then the owner of the property is in violation of the Post-Construction Stormwater code.

If the property owner chooses stop work and not obtain a permit, the property owner will still be required to reestablish the original topography and vegetation of the site prior to activities in a form amenable to the Stormwater Coordinator within the timeframe stated in the order. If the property owner does not reestablish the site to standards and time stated in the order the property owner will be in violation of this Post-Construction Stormwater code.

Any person violating any of the provisions of this division shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this division is committed, continued, or permitted, shall constitute a separate offense. Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine of not more than one thousand dollars (\$1000) for each offense. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this division shall be required to bear the expense of such restoration.

- (b) The City of Moberly may revoke a Post-Construction Stormwater Permit if failure to comply with any term, condition, limit, deadline or other provision of the Post-Construction Stormwater Permit occurs.
- (c) The City of Moberly may recover all attorneys' fees, court costs, and stabilization of disturbed areas, complete the construction of the Post-Construction Stormwater BMPs, cleanup costs, and other expenses associated with enforcement of this ordinance through required fiscal securities and any other forms available.

Sec. 28-222. Appeal of Notice of Violations.

Any person receiving a Notice of Violation may appeal the determination of the Moberly Public Utilities Department. The notice of appeal must be received within fifteen (15) days from the date of the Notice of Violation in written form. Hearing on the appeal before the Director of Public Utilities shall take place within fifteen (15) days from the date of receipt of the notice of appeal. The decision of the Director of Public Utilities shall be final.

