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City of Conway

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City of Conway, Arkansas

Ordinance No. O-09-13

AN ORDINANCE ESTABLISHING EROSION AND SEDIMENT CONTROL REQUIREMENTS; ESTABLISHING STORM WATER MANAGEMENT REGULATIONS; ESTABLISHING PENALTIES FOR VIOLATIONS AND OTHER PURPOSES.

WHEREAS: The City of Conway operates and maintains the storm water system in the City of Conway, and;

WHEREAS: The Arkansas Department of Environmental Quality (ADEQ), under regulations administered by the United States Environmental Protection Agency (EPA), requires the City of Conway to meet certain requirements as established in the national pollution discharge elimination system (NPDES) Phase II for small municipal separate storm sewer systems (MS4's) including the following:

1. Assure permitting and monitoring construction activities disturbing one acre or more of land to assure proper quality of storm water runoff from the construction sites.
2. Monitor and regulate Post construction storm water runoff control from developed sites in regard to both quality and quantity of runoff.
3. Detect and eliminate illicit discharges into the city' storm drainage system.
4. Make annual reports to ADEQ regarding the activities of the city in regard to Storm Water Management.
5. Provide for public education in regard to storm water pollution prevention; and

WHEREAS: The development of sites reduces the impermeable area and may increase the quantity of storm water runoff flowing from the site. The city desires to establish standards for the allowable quantity of flow of storm water flowing from developed sites in an effort to reduce the potential for flooding in Conway.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONWAY, ARKANSAS THAT:

Section 1 Findings

- A. During the construction process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the situation and reduction in capacity of the storm drainage system. Eroded soil also necessitates repair of sewers and ditches and the dredging of ditches and lakes. In addition, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat.
- B. Site development may result in replacement of forest covered area or vegetation covered area with impervious surfaces resulting in less quantity of storm water infiltration into the soil and greater peak storm water discharges from site with increased impervious area. The cumulative effect of increasing the imperious area is an increase in downstream flooding.
- C. Unpermitted and unregulated non-storm water discharges into the city's storm drainage system may contain contaminants that are harmful to the aquatic elements of the stream as well as plant wildlife along the stream. This ordinance declares unpermitted non-storm water discharges a violation and persons causing said

discharges subject to penalty.

Section 2. Purpose

- A. The purpose of this ordinance is to safeguard persons, protect property, and prevent damage to the environment in the City of Conway. This ordinance will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in the City of Conway.
- B. This Ordinance sets forth procedures to assure that appropriate Construction Stormwater Permits are obtained and that Best Management Practices are implemented on construction site to minimize the potential for sediments and other contaminants from entering the storm drainage system.
- C. This Ordinance establishes standards for design of the storm drainage system and establishes regulation for maximum allowable peak stormwater runoff rates from a site.
- D. This Ordinance prohibits illicit non-stormwater discharges into the city's storm drainage system

Section 3. Permits and Approvals Required

- A) No person shall be granted a building permit or shall commence land-disturbing activity that would require the disturbance of one acre or more without the obtaining a Construction Stormwater Permit (sites larger than 5 acres) from the Arkansas Department of Environmental Quality or certifying compliance and "Automatic Coverage" (sites 1 acre to 5 acres in size) under the ADEQ General Storm Water Permit. The stormwater permit should be accompanied by an approved Storm Water Pollution Prevention Plan (SWPPP) which shall be maintained on the construction site for review and inspection by state and city officials. Upon request, a copy of the storm water pollution prevention plan shall be provided to the City Engineer. The permit applicant shall execute a "Erosion Control Compliance Certification" acknowledging the requirements contained in this ordinance and declaring that proper permits have been obtained from ADEQ,
- B) Before the City issues any building permit, parking lot permit or other site development permit, a site drainage plan shall be reviewed and approved by the City Engineer. The site drainage plan will be reviewed in regard to capacity of the storm drainage system to transport water across the site; assuring the adjacent properties are not adversely impacted by site modifications; and the requirement for possible storm water detention facilities will be reviewed by the City Engineer for compliance with the storm water design requirements included in this ordinance.
- C) A Construction Storm Water Permit is not required for the following activities
 - 1) Any emergency activity including utility repairs, street repairs or other repair of public or private infrastructure that is immediately necessary to maintain a necessary public service and for the protection of life, property, or natural resources.
 - 2) Agricultural and crop land activities that results in the sale of agricultural produces.
 - 3) Gardening and minor (less than 1 acre disturbed) landscaping activities.

- 4) The harvesting of timber from a managed forest area provided the land is not used for non-timber uses following the harvest of trees.
 - 5) The construction of a single family residence or duplex located on a single lot not disturbing causing the disturbance of more than 1 acre of land. This does not exempt lots in subdivision that remain under a open stormwater construction permit from being required to comply with the permit requirements and Storm Water Pollution Prevention Plan. This exemption applies to lots in subdivision where the area has been stabilized and no storm water runoff permit remains active. This exemption does not exempt the owner from practicing the storm water runoff management practices described herein nor the imposing of penalties for violations of conditions described in this ordinance.
 - 6) Construction activities that disturb less than one acre of land are not required to obtain a storm water runoff permit but are required to comply with Best Management Practices as described herein to minimize the potential for sediments and other pollutants entering the city's storm drainage system. Person's performing soil disturbing activities will be required to practice the storm water runoff management practices described herein and are subject to penalties for violations Best Management Practices as described in this ordinance.
 - 7) The construction of individual buildings or facilities on individual lots that are part of a larger subdivision covered by an active storm water discharge permit that specifically covers and provides the Storm Water Pollution Prevention Measures (SWPPM) for the facility being constructed. The development of the individual lot shall comply with the Storm water Construction Permit and Storm Water Pollution Prevention Plan presented for the larger project.
 - 8) Construction on state highways or other projects for which a Construction Storm Water Permit has been obtained from the Arkansas Department of Environmental Quality. This does not exempt the owner from practicing the storm water runoff management practices described herein nor the imposing of penalties for violations of conditions described in this ordinance.
 - 9) Routine maintenance or clearing activities on a site that does not change the quality, quantity or location of discharge of storm water runoff from a site.
- D) Site Drainage Plan approval is not required for the following:
- 1) The construction of a single family residence or duplex residence located on a single lot in a subdivision which has been platted and constructed in accordance with the City of Conway Subdivision Ordinance.
 - 2) Remodeling or interior construction projects which do not disturb the ground cover outside the limits of an existing structure.

Section 4. Stormwater Management Plan

- A) Prior to the city's issuance of a building permit or other site development permit (except as described in Section 3, paragraph D above), the site drainage plan or storm water runoff plan shall be approved by the City Engineer. The site drainage plan along with the required site information and design calculations shall

be submitted to the City Engineer for approval. The application shall include the following:

1. Name(s) and address (es) of the owner or developer of the site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm.
 2. Vicinity Map clearly identifying the location of the site ,
 3. A Site Plan showing the buildings, improvements and land disturbing activities proposed for the site.
 4. A drainage plan clearly identifying the location storm water currently enters and exits the site along the proposed storm drainage improvements required to accommodate the site drainage. The plan shall identify downstream drainage structure and facilities that will receive the runoff from the site.
 5. A site grading plan showing the existing and final surface elevations.
 6. The plan should identify existing ground cover material (grass, forest cover, etc.), drainage features (creeks, ditches, swales, storm drainage pipe) crossing the site, drainage features adjacent to the site, and drainage area contributing to any drainageway entering the site and water shed area of drainage areas leaving the site..
 7. Where the construction site size falls within the area which requires a Construction Stormwater Permit (larger than 5 acres) from the Arkansas Department of Environmental Quality, the drainage plan will not be approved until the evidence has been presented to confirm that the requirements of the Arkansas Department of Environmental Quality has been complied with. The Stormwater Pollution Prevention Plan and Storm Water Pollution Prevention Manual identifying the Best Management Practices proposed to used to control site runoff shall be considered a part of the requirements of the site development plan and shall be completed in accordance with the approved plan prior to final approval of the site improvements..
 8. Each drainage plan submitted shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the Stormwater Pollution Prevention Plan and that properly trained and certified personnel will be on site on all days when construction or grading activity takes place to assure the plan is properly implemented and maintained.
- B) The City Engineer will review each Stormwater Management Plan to determine its conformance with the provisions of this ordinance. Within 30 days after receiving an application, the City Engineer shall:
1. Approve the plan.
 2. Approve the plan subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or
 3. Disapprove the plan, indicating the reason(s) and procedure for submitting a revised application and/or submission.
- C) Failure of the City Engineer to act on an original or revised application within 30 days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended

by agreement between the applicant and the City Engineer. Pending preparation and approval of a revised plan, development activities shall be allowed to proceed in accordance with conditions established by the City Engineer.

Section 5. Construction Site Sediment and Erosion Control Requirements

- A. All construction sites within the City of Conway shall implement measures to address the items contained in this section. Project sites larger than one acre are required to obtain a Construction Stormwater Permit (sites larger than 5 acres) or "Automatic Coverage" (sites between 1 acre and 5 acres in size) under the General Storm Water Construction Permit. In conjunction with the building permit application, the owner of the construction sites smaller than one acre shall provide a properly executed "Erosion Control Compliance Certification" acknowledging the requirements contained in this section and committing to implementing and maintaining erosion and sediment control measures necessary to conform to the requirements of this section.
1. Owner Responsibility. The owner of the land on which the construction activity is being performed shall be responsible for assuring compliance with the requirement of this ordinance and liable for any penalties or fines imposed. In addition, individuals and contractors may be cited, penalized and fined for specific violations of this Ordinance.
 2. Construction Entrance. If a paved drive does not exist prior to construction, a stabilized entrance shall be constructed to access the site. The stabilized entrance shall be 20' wide by 20 foot long for single family or duplex construction and 20' wide by 50 feet long for all other construction. The stabilized entrance shall be constructed of a minimum 6 inch thickness of B-Stone (3" to 6" crushed stone). Provision shall be made to limit access to the site to the stabilized construction entrance. The purpose of the entrance is to reduce the potential for tracking mud on public streets. The entrance shall be maintained to serve the intended purpose with additional rock added as required. Tracking of mud or sediments onto the public street will be considered a violation of this ordinance.
 3. Concrete Truck Wash Areas. No washing out of the ready mix truck drum or chutes is allowed except in designated concrete washout pits located onsite or at the ready mix plant. The wash shall not be made in roadside ditches, curb inlets or other locations that would result in the residue material being carried into the storm drainage system.
 4. Dewatering. All water pumped out of sumps, depressions or sediment control areas should be clear water free of sediments.
 5. Dirt and Topsoil Storage. All uncovered stockpiles of soil or site strippings shall be located greater than 25 feet from the roadway or drainageway. If the stockpiles remain for more than 15 days, the stockpiles shall have the surface stabilized with vegetation with sediment control facilities (hay bales, silt fence, etc.) located along the down gradient side of the stockpile to contain any sediments that are eroded from the pile.
 6. Techniques shall be employed to prevent the blowing of dust or sediment from the site.
 7. Techniques that divert upland runoff past disturbed slopes shall be employed.
 8. Stream crossings shall be designed and installed in a manner to minimize soil disturbance and

potential erosion. If a wet watercourse will be crossed regularly during construction, stabilization of the watercourse channel before, during, and after any in-channel work shall be addressed.

9. Public and Private Utilities. Either the property developer, utility contractor performing the onsite and other parties shall be designated as the responsible party for restoring erosion control measures damaged by the utility installation. Damaged erosion control measures shall be promptly restored. The responsible party shall be as designated in the Storm Water Pollution Prevention Plan.
10. Post-Construction Compliance. Upon completion of the permitted construction activity, the property owner will be responsible for continued compliance with the requirements of this ordinance in the course of maintenance, reconstruction or other construction activity on the site.
11. All erosion and sediment control measures necessary to meet the objectives of this regulation shall be installed and maintained throughout all phases of construction and after completion of development of the site. Depending upon the complexity of the project, the intermediate plans may be required at the close of each season.
12. Erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria as established by the City Engineer, and shall be adequate to prevent transportation of sediment from the site to the satisfaction of the City Engineer.
13. Good House keeping practices shall be implemented on the project site to eliminate trash and debris from entering storm drainage system. In addition any chemicals or compounds (including paint, fertilizer, solvents, petroleum products or other contaminants) shall be stored and handled in a manner that will prevent any potential for the materials being carried into the city storm drainage system.
14. Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when in compliance with all other state and federal regulations.
15. Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.
16. The storm water pollution prevention measures shall generally conform to the guidance provided in the publication Storm Water Management for Construction Activities – Developing Pollution Prevention Plans and Best Management Practices as published by the United States Environmental Protection Agency (EPA 832-R-92-005) dated September 1992. This manual along with usual and accepted engineering and construction practices will be used to evaluate if “Best Management Practices” are being implemented to meet the requirements of this Ordinance.
17. All disturbed surfaces shall be permanently stabilized with seeding, paving or other measures to prevent soil from being exposed to storm water runoff.
18. The erosion control measures shall be designed and installed in a manner that will not create a flooding situation. The measures shall not adversely impact the passage of storm water across the site, or cause storm water to pond on adjacent property, or obstruct the flow of storm water into inlets or catch basins.

B. Inspection and Maintenance of Erosion and Sediment Control Measures.

The Storm Water Pollution Prevention Plan or site "Erosion Control Compliance Certification" shall designate an agent representing the owner who will be responsible for inspecting and monitoring the Storm Water Pollution Prevention Measures. The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures or revision in the erosion control measures. The inspections shall clearly state deficiencies in the implementation of the plan and provide a detailed description of the items of work needed to bring the plan into compliance. The work description shall include a method of confirming that deficiency reports are presented to the party responsible for correcting the problem. The inspections shall be made at least weekly and on the day following a rainfall event greater than ½". In addition, the inspections shall be made at the following construction events:

- Start of construction
 - Installation of sediment and erosion measures
 - Completion of site clearing
 - Completion of rough grading
 - Completion of final grading
 - Close of the construction season
 - Completion of final landscaping
 - Every two weeks following stabilization until Certificate of Completion is issued by the City Engineer.
- 1) The Inspector shall make any recommendations for changes deemed necessary to improve the Storm Water Pollution Prevention on the inspection report for consideration.
 - 2) A copy of the Storm Water Pollution Prevention Plan, Storm Water Pollution Prevention Manual and Inspection Reports shall be maintained on site in a water proof enclosure that can be readily accessed by city personnel.
 - 3) The City Engineer or his designated agent shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the compliance with the plan and validity of the inspection reports.

Section 6 Storm Water Discharge Design Requirements

Drainage plans for the proposed site development shall be submitted to the City Engineer for review and approval. The plans and supporting drainage design calculations shall include the following:

- 1) Watershed map showing contours and delineation of drainage basins that contribute to drainageways that enter or leave the project boundary. The area of each watershed shall be shown in acres. The storm drainage system located down stream from the project shall be shown on the plan along with the size and water carrying capacity of the existing downstream facilities.
- 2) The peak storm water runoff shall be computed using the Rational Method or other method

approved by the City Engineer. The storm water runoff rate shall be based on a 10 year frequency rainfall event.

- 3) Runoff rates shall be based usual engineering values for runoff coefficients for the post development conditions and soil types. The coefficient shall be subject to approval of the City Engineer. In general, all cross site drainage shall be sized to accommodate runoff rates based on a runoff coefficient of not less than 0.60 for the contributing watershed.
- 4) Stormwater Detention will be required will be required for the following situations:
 - a) Downstream drainage improvements are not adequate to accommodate the estimated 10 year frequency storm water discharge from the site.
 - b) The site will be covered by more than 33% impervious surfaces (buildings, roof covered accessory buildings, paved parking or storage areas, paved drives, paved sidewalks or other impervious or low permeability surfaces). This provision allows the usual residential structure (less than 3,000 S.F. total surface coverage) and related facilities to be constructed on a usual size single family residential lot (8,000 square foot) without requiring storm water detention.
 - c) At locations where the downstream area has had a history of flooding problems (floodwaters rising to a level that building floors are flooded or major streets are made impassable) as determined by the City Engineer.
- 5) Storm Water Detention Design Requirements:
 - a) The minimum required volume of the storm water detention shall be based on the storage volume required to reduce the post construction site storm water runoff to a rate no greater than the storm water runoff from the predevelopment site.
 - b) The detention volume shall be based on a 25 year rainfall frequency.
 - c) The detention pond outlet facilities structure shall be designed to release a flow rate no greater than storm water runoff from the undeveloped site for a 10 year frequency rainfall event.
 - d) Detention area spillway and overflow facilities shall be designed to accommodate a 100 year rainfall event without creating flooding conditions upstream of the pond or endangering the stability of the detention area embankment.
- 6) Stormwater Detention Facilities may not be required to be constructed and an in lieu of storm water detention fee paid to a fund to create regional detention facilities or regional storm water management improvements under following conditions:
 - a) The storm water discharge from the site is directly into a major storm water system in which the peak flow in the stream would be increased by the delayed release from stormwater detained on the site. The City Engineer shall review calculations prepared by the developer's engineer and make the determination that this situation exist.
 - b) Site area is limited and the storm detention would not result in a detectable reduction in downstream storm water surface elevations. This condition will be subject to the approval of the City Engineer based on his review of calculations prepared by the developer's engineer and make the determination that this situation exist.

- c) A regional detention facility is planned or under construction in the watershed impacted by the development and the regional facility adequately addresses the increase in site runoff from the project area. The City Engineer will determine if an in lieu of fee is allowable under this exception.
 - d) The in lieu of detention fee for detention facilities shall be \$15,000 per acre foot of storm water detention volume required to comply with subsection 5 above.
 - e) At locations where engineering calculation demonstrates that the proposed development will not result in an increase in the peak runoff from the site.
- 7) Flood Damage Prevention Code. Where the project limits fall within the limits of the floodplain as shown on the City's FIRM panels, all permits and approvals required by Conway's Flood Damage Prevention Code shall be obtained prior to approval of the stormwater drainage plan.

Section 7. Illicit Discharges:

- A. All non-storm water discharges into the City of Conway's storm drainage system, drainageways, creeks or stream are prohibited except those specifically permitted and authorized by ADEQ and those listed in the following paragraph. The city will implement a program to detect and eliminate illicit discharges and notify ADEQ of any discharges that appears to contain contaminants that exceed minimums in exceedance of applicable water quality standards.
- B. The following measures will be implemented by the city to detect, trace and eliminate illicit discharges into the city's storm drainage system:
 - 1. Develop and maintain a comprehensive set of storm drainage system maps showing all of the various storm drainage piping, ditches and drainageways. The map shall include the location of all permitted non-stormwater discharges in the City of Conway. The maps shall be readily for use in tracing the origin of possible illicit discharges in a stream.
 - 2. A monitoring program shall be implemented to inspect the stormwater system on a routine basis such that the entire city storm drainage system is inspected at least every four years. The storm drainage systems receiving runoff from industrial or manufacturing shall be the initial area of monitoring.
 - 3. The monitoring program shall include visual inspection of the storm drainage system during dry weather along with tracing dry weather flows to determine the source of the dry weather flows are for acceptable sources.
 - 4. Water quality test shall be performed on water samples obtained from selected downstream monitoring locations to evaluate if any potential contaminants are entering the various major steams flowing out of the city. The test shall be conducted at intervals that will evaluate the major streams every two years. If contaminants are detected, additional test shall be conducted upstream at various junctions in the drainageway to isolate the source of the pollutant.
- C. The following non-storm water discharges may be discharged unless they are identified as a significant contributor of pollutants to the city's storm drainage system:
 - 1. Waterline Flushing

2. Landscape irrigation
 3. Diverted stream flows
 4. Rising ground water
 5. Uncontaminated ground water infiltration
 6. Uncontaminated pumped ground water
 7. Incidental discharges from potable water sources
 8. Foundation drains
 9. Air conditioning condensate
 10. Irrigation water
 11. Springs
 12. Water from crawl space or basement pumps
 13. Footing drains
 14. Lawn watering
 15. Individual residential car washing
 16. Discharges from riparian habitats and wetlands
 17. Dechlorinated swimming pool discharges (effluent from swimming pool filters is not allowed)
 18. Street wash down water
 19. Routing building wash water
 20. Discharges or flows from emergency fire fighting activities
 21. Other similar occasional non-storm water discharges that are not reasonably expected to be a significant source of pollutants to the city's storm drainage system.
- D. When the appropriate source of an illicit discharge is identified, the city will issue a "cease and desist" order to the operator and owner of the facility to require immediate stoppage of the discharge and activities causing the discharge. Before the "cease and desist" order is satisfied, the operator will be required to provide an "action plan" to identify the measures taken to prevent the discharge from reoccurring. The city will also advise ADEQ of the violation and assess penalties as described in the following section if the circumstances require.

Section 8. Enforcement

A) Stop-Work Order; Revocation of Permit

If a construction activity results in sediments and/or other pollutants being carried from the construction site onto adjacent property, adjacent drainageways or public rights of way, the contractor shall immediately clean up the material. If an activity addressed by this Ordinance is found in violation of the provisions of this Ordinance, the City of Conway's appointed representative (code enforcement personnel, city building permits officials, City Engineer, City Attorney or other duly authorized personnel) may issue a "cease and desist" order for all construction activities on the site until the appropriate clean up measures are completed, compliance with the permit is achieved or other provisions are made to

prevent non-compliance with the provisions of this ordinance.. The City's approval of construction, building permit approvals, payments, release of payments or bonds, issuance of a "Certificates of Occupancy" and final approvals may be withheld or revoked until a violation is corrected and appropriate sediment control measures are in place.

B) Violation and Penalties

1. No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this ordinance. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this ordinance 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 less than \$100 and not more than \$500 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 ordinance shall be required to bear the expense of clean up performed by others and such restoration cost required to comply with this Ordinance.
2. Violations that are subject to an immediate penalty without notice of deficiency or warning include the following:
 - a) Commencing surface disturbance prior to obtaining a permit required by this ordinance.
 - b) Failure to conform to or implement the BMP measures (including final stabilization) as described in the project SWPPP plan.
 - c) Failure to modify SWPPP and BMP practices to conform to requirements described in this ordinance.
 - d) Tracking mud or allowing sediments to be carried onto adjacent streets.
 - e) Allowing sediments to be carried from the site into adjacent waterways or storm drainage facilities.
 - f) Failure to implement dust control.
 - g) Illicit discharges into the city's storm drainage system.
 - h) Failure to conform to the Construction Stormwater Permit issued by Arkansas Department of Environmental Quality.
 - i) Creating conditions that result in water ponding on adjacent properties or on public rights of ways or the diversion of storm water onto locations not previously receiving stormwater runoff from the area.
 - j) Creating conditions that result in the blockage of water in the drainageways or restricting of flows in drainageways.

Section 9 Separability

The provisions and sections of this ordinance shall be deemed to be separable, and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.

Section 10: Effective Date. This ordinance shall become effective 30 days after adoption. For projects which were issued building permits prior to the effective date of this ordinance, no additional permits or approvals are required, but said projects shall conform to the performance requirements contained in this ordinance.


PASSED this 10th day of February, 2009.

APPROVED:



Mayor Tab Townsell

ATTEST:



Michael O. Garrett
City Clerk/Treasurer