ORDINANCE 2024-09

AN ORDINANCE OF THE CITY OF BRENTWOOD, TENNESSEE, PROVIDING THAT THE CODE OF ORDINANCES BE AMENDED BY REVISING VARIOUS SECTIONS OF CHAPTER 56, ARTICLE I, DIVISIONS 1 THROUGH 4 IN REGARD TO THE STORMWATER MANAGEMENT, EROSION CONTROL AND FLOOD DAMAGE PREVENTION

WHEREAS, the City of Brentwood is required to incorporate Tennessee Department of Environment and Conservation (TDEC) municipal separate storm sewer system (MS4) regulations into the Brentwood Municipal Code, to insure the language aligns with the MS4 general permit requirements; and

WHEREAS, the Legislature of the State of Tennessee has, in Tenn. Code Ann. §§ 13-7-201 through 13-7-212, delegated the responsibility to local governments to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, Chapter 56, Article I of the Code of Ordinances of the City of Brentwood establishes regulations governing stormwater management and erosion control; and

WHEREAS, the proposed amendments set forth in this ordinance will allow the City to continue protecting the public health, safety and welfare through effective stormwater management and erosion control.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF BRENTWOOD, TENNESSEE, AS FOLLOWS:

SECTION 1. That section 56-1 of the Code of Ordinances of the City of Brentwood, Tennessee is hereby amended to read as follows:

Sec. 56-1. Intent; application.

(a) Land disturbances and stormwater can contribute to the degradation of land surfaces and streams, erosion, siltation, earth slides, mud flows, dusty conditions, clogged storm sewers, additional road maintenance cost, increased water runoff and localized flooding. It is the intent of this chapter to protect the health and safety of residents and to preserve adjoining or nearby properties, including hilltops, hillsides, streams, vegetation, structures and other natural and manmade features, through the regulation of land disturbances and stormwater runoff and the imposition of erosion prevention and sediment control and stormwater control measures.

(b) Enable the City of Brentwood to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR 122 for stormwater discharges.

(c) Allow the City of Brentwood to exercise the powers granted in Tennessee Code Annotated § 68-221-1105, which provides that, among other powers cities have with respect to stormwater facilities, is the power by ordinance to:

  (1) Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the city, whether or not owned and operated by the city;

  (2) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;

  (3) Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater pollutants as may be necessary to protect water quality;

(4) Review and approve plans and plats for stormwater management in proposed subdivisions or commercial developments, and any proposed land disturbing activities requiring a grading permit;
(5) Issue permits for stormwater discharges, or for the construction, alteration, extension, or repair of stormwater facilities;
(6) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance or condition of the permit;
(7) Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been polluted; and
(8) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater pollutants, whether public or private.

(d) Except as otherwise provided for, the following regulations shall apply to all properties throughout the city.

SECTION 2. That Section 56-2 the Code of Ordinances of the City of Brentwood, Tennessee is hereby amended to read as follows:

Sec. 56-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agricultural land management activities are the practice of cultivating the soil, producing crops, and raising livestock for the preparation and marketing of the resulting products.

As-built means a set of drawings and documents that delineate and describe the as-built condition of stormwater control measures and stormwater management facilities as actually constructed, including but not limited to elevation, size, type, slope, location, etc.

Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the discharge of pollutants to waters of the state. BMPs also include treatment requirements, operating procedures; and practices to control plant site runoff, spillage, leaks, sludge or waste disposal, or drainage from raw material storage. BMPs include source control practices (non-structural BMPs) and engineered structures designed to treat runoff. Structural BMPs are facilities that help prevent pollutants in stormwater runoff from leaving the site. Non-structural BMPs are techniques, activities, and processes that reduce pollutants at the source.

Borrow pit is an excavation from which erodible material (typically soil) is removed to be fill for another site. There is no processing or separation of erodible material conducted at the site. Given the nature of activity and pollutants present at such excavation, a borrow pit is considered a construction activity for the purpose of this ordinance.

Clearing refers to removal of vegetation and disturbance of soil prior to grading or excavation in anticipation of construction activities. Clearing may also refer to wide area land disturbance in anticipation of non-construction activities. Clearing, grading, and excavation do not refer to clearing of vegetation along existing or new roadways, highways, dams, or power lines for sight distance or other maintenance and/or safety concerns, or cold planning, milling, and/or removal of concrete and/or bituminous asphalt roadway pavement surfaces.

Commencement of construction is the initial disturbance of soils associated with clearing, grading, excavation, or other construction activities.

Common plan of development or sale is broadly defined as any announcement or documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design) or physical demarcation (including boundary signs, lot stakes, surveyor markings) indicating construction activities may occur on a specific plot. A common plan of development or sale identifies a situation in which multiple areas of disturbance are occurring on contiguous areas. This applies because the activities may take place at different times, on different schedules, by different operators.

Cut means the portion of land surface or area from which earth has been or will be removed by excavation; also, the depth below original ground surface to excavated surface.

Design storm event is the estimated design rainfall amount, for any return period interval (i.e. 1-year, 2-year, 5-year, 25-year, etc.) in terms of either 24-hour depths, or intensities for any duration, as defined by Precipitation-

Frequency Atlas of the United States. Atlas 14. Volume 2. Version 3.0 U.S. Department of Commerce National Oceanic and Atmospheric Administration (NOAA), National Weather Service, Hydrometeorological Design Studies Center, Silver Springs, Maryland or its digital product equivalent.

Developed Land is land that is impervious such as roads, paved parking lots, rooftops, buildings or structures, sidewalks, driveways, and other surfaces which prevent or impede the natural infiltration of stormwater runoff.

Discharge of a pollutant refers to the addition of pollutants to waters from a source.

Disturbed area means the total area presented as part of the development (and/or of a larger common plan of development) subject to being cleared, graded, grubbed, filled, or excavated during the life of the development. The area cannot be limited to only the portion of the total area that the site-wide owner/developer initially disturbs through the process of various land clearing activities or in the construction of roadways, sewers, drainfields, and water utilities, stormwater drainage structures, etc., to make the property marketable.

Division means the Division of Water Resources of the State of Tennessee, Department of Environment and Conservation.

Drainage means the interception and removal of groundwater or surface water by natural or artificial means.

Enforcement Response Plan (ERP) is a set of procedures which present the permittee's potential responses to violations and address repeat violations through progressive enforcement as needed to achieve compliance. These enforcement responses should be commensurate with the nature of the violation and must include enforcement responses progressing up to the maximum civil and criminal penalties as described in Tennessee Code Annotated 69-3-101.

Erosion means any removal or loss of soil by the action of wind and water. Erosion includes both the detachment and transportation of soil particles.

Exceptional Tennessee Waters (ETW) are surface waters designated by the Division as having the characteristics set forth at Tennessee Rules, Chapter 0400-040-03-.06(4). Characteristics include waters within parks or refuges; scenic rivers; waters with threatened or endangered species; waters that provide specialized recreational opportunities; waters within areas designated as lands unsuitable for mining; waters with naturally reproducing trout; waters with exceptional biological diversity and other waters with outstanding ecological or recreational value.

Fill means the portion of land surface or area to which soil, rock or other materials have been or will be added; height above original ground surface after the material has been or will be added.

Grading means any operation or occurrence by which the existing site elevations are changed by cutting, filling, borrowing or stockpiling, or where any ground cover, natural or manmade, is removed, or any buildings or other structures are removed or any watercourse or body of water, either natural or manmade, is relocated on any site, thereby creating an unprotected area. Grading shall be synonymous with land disturbance activity.

Hazardous material 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.

Illicit connection means either of the following:

(a) Any drain or conveyance, whether on the surface or subsurface, that allows an illicit discharge to enter the storm drain system, including but not limited to any conveyance that allows any non-stormwater discharge (including sewage, processed wastewater or wash water) to enter the storm drain system or any connection to the storm drain system from an indoor drain or sink, regardless of whether said connection had been previously allowed, permitted or approved by an authorized enforcement agency.

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

Illicit discharge means either of the following:

(a) Any discharge to a municipal separate storm sewer system that is not composed entirely of stormwater, except as authorized herein.

(b) Any infiltration into the storm drain system resulting from spills, illegal dumping, or contaminated runoff from residential, commercial or industrial properties.

Improved sinkhole is a natural surface depression that has been altered in order to direct fluids into the hole opening. Improved sinkhole is a type of injection well regulated under the Underground Injection Control (UIC) program. Underground injection constitutes an intentional disposal of waste waters in natural depressions, open fractures and crevices, such as those commonly associated with weathering of limestone.

Land disturbance plan means the plan required before a grading permit may be issued. A land disturbance plan consists of a narrative description and appropriate drawings and plans that spell out the methods, techniques, and procedures to be followed on a site to control erosion and other potential degradation of adjoining or nearby properties, during and after development, including methods of final stabilization of the site.

Linear project is a land disturbing activity as conducted by an underground/overhead utility or highway department, including, but not limited to any cable line or wire for the transmission of electrical energy; any conveyance pipeline for transportation of gaseous or liquid substance; any cable line or wire for communications; or any other energy resource transmission ROW or utility infrastructure, e.g., roads and highways. Activities include the construction and installation of these utilities within a corridor. Linear project activities also include the construction of access roads, staging areas and borrow/spoil sites associated with the linear project. Land disturbance specific to the development of residential and commercial subdivisions or high-rise structures are not considered a linear project. *Long-term operation and maintenance plan* is a plan that specifies the schedule of inspections and maintenance activities necessary to ensure that stormwater control measures or stormwater management facilities remain in proper working condition in accordance with the approved design standards, rules, and regulations, and applicable laws that shall be included with the operation and maintenance agreement.

Immediate threat to public health and safety means a very serious threat to the community or adjacent property including, but not limited to, clogged drainage ditches, flooding of adjacent properties, threat of landslides or other problems which should be resolved without delay. In instances where this is the case, verbal instructions to remedy the situation with follow-up of written notification shall be sufficient to meet the notification requirements of this article.

Municipal separate storm sewer system (MS4) is defined in 40 C.F.R. §122.26(b)(8) to mean a conveyance or system of conveyances (e.g., roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that are:

(a) owned and operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of CWA that discharges to waters of the United States;

(b) designed or used for collecting or conveying stormwater;

(c) not a combined sewer; and

(d) not part of Publicly Owned Treatment Works (POTW) as defined in 40 C.F.R. § 122.2.

National Pollutant Discharge Elimination System (NPDES) permit is 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-stormwater discharge means any discharge to the storm drain system that is not composed entirely of stormwater.

Operator means any person associated with a construction project that meets either of the following two criteria:

(a) This person has operational or design control over construction plans and specifications, including the ability to make modifications to those plans and specifications. This person is typically the owner or developer of the project or a portion of the project (e.g., subsequent builder) or the person who is the current owner of the construction site.

(b) This person has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a SWPPP for the site or other permit conditions. This person is typically a contractor or a commercial builder who is hired by the primary permittee and is considered a secondary permittee.

It is anticipated that at different phases of a construction project, different types of parties may satisfy the definition of operator.

Owner means the person or entity holding the registered title to property. The city property tax rolls shall be prima facie evidence that the person or entity listed therein is the registered owner.

Peak flow means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.

Permanent stabilization means that all soil disturbing activities at the site have been completed and one of the three following criteria is met:

(a) A perennial, preferably native, vegetative cover with a uniform (i.e., evenly distributed, without large bare areas) density of at least 70 percent has been established on all unpaved areas and areas not covered by permanent structures, and all slopes and channels have been permanently stabilized against erosion.

(b) Equivalent permanent stabilization measures such as the use of riprap; permanent geotextiles; hardened surface materials including concrete, asphalt, gabion baskets or Reno mattresses have been employed.

(c) For construction projects on land used for agricultural or silvicultural purposes, permanent stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural or silvicultural use.

Permit holder means the owner of the property or the owner's representative in whose name a permit has been applied for and issued by the city.

Point source or outfall means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include introduction of pollutants from non-point source agricultural and silvicultural activities, including stormwater runoff from orchards, cultivated crops, pastures, range lands, forest lands, or return flows from irrigated agricultural or agricultural stormwater runoff. In short, outfall is a point where runoff leaves the site as a concentrated flow in a discrete conveyance.

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

Priority areas are areas where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. The following but not limited to, land uses and activities are deemed stormwater priority areas:

(a) Vehicle salvage yards and recycling facilities;

(b) Vehicle service and maintenance facilities;

(c) Vehicle and equipment cleaning facilities;

(d) Fleet storage areas (bus, truck, etc.);

(e) Industrial sites (include on standard industrial classification code list);

(f) Public works storage areas;

(g) Facilities that generate or store hazardous waste materials;

(h) Commercial container nursery;

(i) Meat production;

(j) Restaurants and food service facilities; or

(k) Other land uses and activities as designated by the city's engineering director.

Priority construction activity mean construction activities discharging within a flow length of 300-feet into waters of the state recognized as unavailable parameters (for siltation/sedimentation or habitat alteration) or Exceptional Tennessee Waters.

Potable water means any water from a public water supply system or private well that is suitable to drink.

Redevelopment means the alteration of developed land.

Registered Engineer or Register Landscape Architect is an engineer or landscape architect certified and registered by the State Board of Architectural and Engineer Examiners pursuant to Section 62-202, Tennessee Code Annotated, to practice in Tennessee.

Runoff coefficient means the fraction of total rainfall that will appear at the conveyance as runoff. Runoff coefficient is also defined as the ratio of the amount of water that is not absorbed by the surface to the total amount of water that falls during a rainstorm.

Sediment means Solid material, both inorganic (mineral) and organic, that is in suspension, is being transported; or has been moved from the site of origin by wind, water, gravity or ice as a product of erosion.

Sediment basin is a temporary basin consisting of an embankment constructed across a wet weather conveyance, an excavation that creates a basin or by a combination of both. A sediment basin typically consists of a forebay cell, dam, impoundment, permanent pool, primary spillway, secondary or emergency spillway and surface dewatering device. The size and shape of the basin depends on the location, size of drainage area, incoming runoff volume and peak flow, soil type and particle size, land cover, and receiving stream classification (i.e., waters with unavailable parameters, Exceptional TN Waters, or waters with available parameters).

Sedimentation means the action or process of forming or depositing sediment.

Significant contributor is defined as a source of pollutants where the volume, concentration, or mass of a pollutant in a stormwater discharge can cause or threaten to cause pollution, contamination, or nuisance that adversely impact human health or the environment and cause or contribute to a violation of any applicable water quality standards for receiving water.

Silviculture or Forestry is the cultivation and harvesting of timber for the production of forest products.

Site means any tract, lot or parcel of land or combination of tracts, lots or parcels of land proposed for development.

Steep slope means a natural or created slope of 25% grade or greater. Designers of sites with steep slopes must pay attention to stormwater management in the SWPPP to engineer runoff around or over a steep slope so as not to erode the slope. In addition, site managers should focus on erosion prevention on the slopes and stabilize slopes as soon as practicable to prevent slope failure or sediment discharges from the project.

Stop work order means an order issued by the city requiring construction activity on a site to be stopped.

Stormwater means rainfall runoff, snow melt runoff, surface runoff, and drainage.

Stormwater control measures (SCMs) mean permanent practices and measures designed to reduce the discharge of pollutants from new development projects or redevelopment projects.

Stormwater discharge-related activities mean activities that cause, contribute to, or result in point or non-point source stormwater pollutant discharges. These activities may include land disturbing activities, site development, grading and other surface disturbance activities; and activities to control stormwater including the siting, construction and operation of best management practices (BMPs).

Stormwater Pollution Prevention Plan (SWPPP) is a written site-specific plan that includes a narrative pollution prevention plan and graphical erosion and sediment control plan. In its basic form, the plan contains a site map, a description of construction activities that could introduce pollutants to stormwater runoff, a description of measures or practices to control these pollutants, and erosion and sediment control plans and specification. It must be prepared and submitted before construction begins. In order to effectively reduce erosion and sedimentation impacts, Best Management Practices (BMPs) must be designed, installed, and maintained during land disturbing activities. The SWPPP should be prepared in accordance with the Tennessee Erosion and Sediment Control Handbook.

Stormwater runoff means stormwater flowing over the surface of the ground or collected in channels, watercourses or conduits, measured in depth of inches.

Stream is a surface water that is not a wet weather conveyance. This includes lakes, wetlands, and other non-linear surface waters.

Subdivision regulations means the City of Brentwood document written to cover a wide range of activities related to subdivision and/or development of land within the City of Brentwood as included as Appendix A of the Code of Ordinances.

Substantial rebuild lot means a lot on which modification to an existing structure or the lot itself is proposed, including but not limited to, residential addition, swimming pool, or other accessory building or structure such that the increase in impervious surface is greater than or equal to 800 square feet.

Take of an endangered species means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or attempt to engage in any such conduct.

TDEC means the Tennessee Department of Environment and Conservation.

Temporary stabilization is achieved when vegetation or non-erodible surface has been established on the area of disturbance and construction activity has temporarily ceased. Under certain conditions, temporary stabilization is required when construction activities temporarily cease. However, if future construction activity is planned, permit coverage continues.

Tennessee Erosion and Sediment Control Handbook is guidance issued by the Division of Water Resources for the purpose of developing Stormwater Pollution Prevention Plans and Erosion and Sediment Control Plans required by TN Construction General Permit (CGP). The handbook is designed to provide information to planners, developers, engineers, and contractors on the proper selection, installation, and maintenance of BMPs. The handbook is intended for use during the design and construction of projects that require erosion and sediment controls to protect waters of the state.

Total maximum daily load (TMDL) means the sum of the individual wasteload allocations for point sources and load allocations for non-point sources and natural background (40 C.F.R. 130.2(I)). TMDL is a study that quantifies the amount of a pollutant in a stream, identifies the sources of the pollutant and recommends regulatory or other actions that may need to be taken in order for the stream to cease being polluted. TMDLs can also be described by the following equation:

TMDL = sum of non-point sources (LA) + sum of point sources (WLA) + margin of safety

Treatment train is a technique for progressively selecting various stormwater control measures to address water quality, by which groups of practices may be used to achieve a treatment goal while optimizing effectiveness, maintenance needs, and space.

USGS means the U.S. Geological Survey, an agency of the U.S. Department of the Interior.

Waste site is an area where material from a construction site is disposed of. When the material is erodible, such as soil, the site must be treated as a construction site.

Water Quality Riparian Buffer (formerly Waterway Natural Area) is a permanent strip of natural perennial vegetation, adjacent to a stream, river, wetland, pond, or lake that contains dense vegetation made up of grass, shrubs, and/or trees. The purpose of a water quality riparian buffer is to maintain existing water quality by minimizing risk of any potential sediments, nutrients or other pollutants reaching adjacent surface waters and to further precent negative water quality impacts by providing canopy over adjacent waters.

Waters or waters of the state means any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through, or border upon Tennessee or any portion thereof, except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine or effect a junction with natural surface or underground waters.

Waters with unavailable parameters means any segment of surface waters that has been identified by the Division as failing to support one or more classified uses. Unavailable parameters exist where water quality is at, or fails to meet, the levels specified in water quality criteria in Rule 0400-40-03-.03, even if cause by natural conditions. In the case of a criterion that is a single response variable or is derived from measurement of multiple response variables, the unavailable parameters shall be the agents causing water quality to be at or failing to meet the levels

specified in criteria. Resources to be used in making this determination include biennial compilations or impaired waters, databases of assessment information, updated GIS coverages (https://tdeconline.tn.gov/dwr/), and the results of recent field surveys. GIS coverages of the streams and lakes not meeting water quality standards, plus the biennial list of waters with unavailable parameters, can be found at https://www.tn.gov/environment/program-areas/wr-water-resources/water-quality/water-quality-reports---publications.html.

Wet weather conveyance are man-made or natural watercourses, including natural watercourses that have been modified by channelization, that meet the following:

(a) The conveyance carries flow only in direct response to precipitation runoff in its immediate locality.

(b) The conveyance's channels are at all times above the groundwater table.

(c) The flow carried by the conveyance is not suitable for drinking water supplies.

(d) Hydrological and biological analyses indicate that, due to naturally occurring ephemeral or low flow under normal weather conditions, there is not sufficient water to support fish or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two months. (Tennessee Rules, Chapter 0400-40-3-.04(3)).

SECTION 3. That Section 56-11 of the Code of Ordinances of the City of Brentwood, Tennessee is hereby amended to read as follows:

Sec. 56-11. Grading permit procedure.

(a) *Requirements.* Except as otherwise exempted in section 56-12, no person shall engage in any land disturbing activity which will modify the existing grade and/or may result in increased soil erosion or sedimentation, including, but not limited to, clearing, stripping, grading, excavation, transporting and filling, unless a grading permit has first been obtained from the city. The owner of the property or their representative shall complete an application as provided by the planning department and shall submit a proposed land disturbance plan with the application in compliance with section 56-13 herein and the subdivision regulations where applicable. The property owner shall be responsible for compliance with all provisions of this article. The grading permit does not preclude additional permits or authorization required by the state or the city.

(b) *Staff authorization; appeals of staff decisions.* No grading permit or building permit shall be issued until the proposed land disturbance is reviewed and approved by the city. The engineering department shall require such revisions to the land disturbance plan as may be necessary to carry out the intent of this chapter. In the event a property owner or permit applicant disputes a decision made by the engineering department in regard to the review of a land disturbance plan, an appeal may be filed with the board of building construction appeals as set forth in chapter 14, article II of this Code.

(c) *Fees.* In order to defray costs associated with the processing of permits and for inspections of land disturbance activities, a nonrefundable fee as established in subsection 14-72(h) or such other applicable section of this Code shall be required with the application for a grading permit.

(d) *Security.* Prior to the issuing of a permit for any land disturbing activity affecting more than five acres, the applicant shall be required to provide a letter of credit or cashier's check to the city to guarantee completion of all land and grade stabilization measures and improvements as shown by the approved plan. For smaller areas when potentially hazardous soil or drainage conditions exist due to types of soils, steep slopes, floodplain development or nearby lakes, streams or large drainage ditches, the applicant may be required, at the discretion of the engineering department, to provide a letter of credit or cashier's check to the city to guarantee completion of all land and grade stabilization measures and improvements as shown by the approved plan. The city's engineering director or designee shall establish the amount and time period of the security, based on the estimated cost and time for completing the plan. Within 30 days of the engineering department's determination that all provisions of the approved plan have been completed or upon receipt of performance security for required subdivision improvements by the city, such land and grade stabilization security shall be refunded or terminated.

SECTION 4. That Section 56-12 of the Code of Ordinances of the City of Brentwood, Tennessee is hereby amended to read as follows:

Sec. 56-12. Activities exempt from grading permit requirements.

The following activities shall be exempt from the requirements for a grading permit unless the land disturbing activities are greater than or equal to one acre or part of a larger common plan of development or sale or the city deems a grading permit to be necessary:

(a) Single-family residence. The construction of a single-family residence, with an approved building permit, on a lot with grades less than 15 percent; provided, however, such construction shall be required to comply with the erosion prevention and sediment control requirements set forth in subsection 56-13(3).

(b) Residential Driveway. The construction of a residential driveway, with an approved miscellaneous permit, on a lot with grades less than 15 percent; provided, however, such construction shall be required to comply with the erosion prevention and sediment control requirements set forth in subsection 56-13(3) and code requirements.

(c) Additions or modifications to existing residential structures or lots. The modification to an existing residential structure or lot including an addition, swimming pool, or other accessory building or structure such that the increase in impervious surface is less than 800 square feet; provided, however, such construction shall be required to comply with the erosion prevention and sediment control requirements set forth in subsection 56-13(3).

(d) Public utilities and roadway construction. The installation, maintenance and repair of any public utility, as well as public roadway and storm drainage construction and maintenance by governmental agencies and/or their agents.

(e) Agricultural uses. Farming or other accepted agricultural uses, as identified in the Tennessee Right to Farm Act (T.C.A. § 43-26-101 et seq., or as hereafter replaced or amended.)

(f) Lawns/gardens/landscaping. Home gardens, home landscaping or lawn preparations on existing lots or parcels, unless the possibility for erosion or alteration of drainage patterns or structures is such to necessitate a grading permit, as determined by the city.

SECTION 5. That Section 56-13 of the Code of Ordinances of the City of Brentwood, Tennessee is hereby amended to read as follows:

Sec. 56-13. Land disturbance plan.

A land disturbance plan required under the provisions of this article shall comply with the requirements set forth in this section. The complexity of the plan shall be commensurate with the severity of site conditions and potential for off-site damage. The engineering department may require additional information if deemed necessary and appropriate to evaluate the feasibility of the plan.

(a) Basic plan requirements. The plan shall identify the specific and appropriate erosion prevention and sediment control practices proposed for the site to be disturbed, as well as a schedule for implementation and maintenance. The plan shall address the specific requirements of sections 58-14 through 58-18 herein. The plan shall also identify final stabilized conditions for the site, provisions for removing temporary control measures and permanent stabilization of the site when temporary measures are removed, permanent stormwater conveyance structures and maintenance requirements for any stormwater control measures (SCMs).

(b) Professional design. The land disturbance plan shall be developed by a licensed Tennessee professional engineer or landscape architect when the area of disturbance meets substantial rebuild lot requirements, is greater than or equal to one acre or part of a larger common of development or sale, affects parking areas, when potentially hazardous soil or drainage conditions exist due to types of soils, steep slopes, floodplain development or nearby lakes, streams or large drainage ditches or as required at the discretion of the engineering department.

(c) Land Disturbance. No more than 50 acres of active soil disturbance is allowed at any one time. Projects applying for a grading permit that anticipate disturbance greater than 50 acres shall provide construction phasing plans. The construction phases shall be described to discuss the day-to-day site management that balances the disturbed, undisturbed, and stabilized areas.

(d) Erosion prevention and sediment control. Erosion prevention and sediment control measures shall be designed and carried out in accordance with the TDEC construction general permit for stormwater discharges and the requirements of the 'Tennessee Erosion and Sediment Control Handbook. Areas that are to be developed or excavated shall apply these guidelines, fitting the appropriate measures to the specific soils and topography to minimize soil erosion and surface water runoff. The erosion prevention and sediment control measures shall be maintained, and replaced, if necessary, until vegetative cover is established.

(e) Protection of natural vegetation and trees. Natural vegetation shall be retained and protected whenever feasible during construction. If an area is stripped of vegetation during construction, the exposed area shall be limited to the smallest practical size, and duration of the exposure limited to the shortest practical time.

(f) Minimum information required. It shall be at the discretion of the city's engineering director to determine how much information is necessary to obtain a grading permit. The engineering director may also determine the number of paper copies of the land disturbance plan to be submitted, and/or may require that the plan be submitted in a specified electronic format. At a minimum, a land disturbance plan shall contain the following:

(1) The registration seal and signature of the Tennessee licensed professional engineer or landscape architect who prepared the plan.

(2) Name, address, and telephone number of the applicant, and the owners and developer, if other than the applicant, of the property to be disturbed.

(3) Email address for the design engineer or landscape architect.

(4) A brief project description.

(5) Current field run topography and actual elevations based on an identified benchmark by a Tennessee licensed professional land surveyor. Drawings showing pre-development topographic conditions and post-development grades, at a scale appropriate to the land area of the plan, and with contour intervals no greater than two feet. All existing improvements and utilities public and private shown. The plan shall include off-site existing topographic conditions extended to a minimum of 25 feet beyond the boundaries of the subject tract if grading is designed to be within 20 feet of any boundary line. Information on all public roads and utilities adjoining the subject property shall also be included. Identification of existing trees in excess of four-inch caliper and trees to be preserved shall be shown.

(6) The site location, boundaries, adjacent properties, location of any existing or proposed structures on the property or on adjacent land within 100 feet of the area to be disturbed, floodplain areas, ditch lines, jurisdictional features, and any existing on-site and off-site structural or natural features of the land which have a significant impact on drainage or sediment control.

(7) The location and a description of temporary and permanent erosion prevention and sediment control measures, stormwater drainage facilities, SCMs, and structural changes and improvements to the land, including clearing and grading limits, daily cleanup and site control practices (to include designated concrete washout locations and waste disposal measures) and other activities to mitigate the adverse impact of land disturbance.

(8) Vicinity map with legible street names. Include subdivision, lot number, adjacent lot numbers and parcel data where applicable. Include recorded plat book, page number, address, and zoning in title block.

(9) Standard details to include typical drainage/diversion ditches, silt fence, temporary construction exit, tree protection, stabilization measures, inlet protection, and any additional items as necessary to mitigate the adverse impact of land disturbance.

(10) Property lines with bearing and distances to two decimal places. Building setbacks, easements, and all public utilities shown, labeled and dimensioned.

(11) Proposed contours distinguishable from existing contours. Spot elevations as necessary for proposed improvements. Site elevations, existing LFE, proposed LFE, minimum LFE.

(12) Retaining walls greater than four feet in height shall be certified by a Tennessee licensed professional engineer upon completion. Retaining wall heights shall meet Subdivision Regulation and Municipal Code requirements.

(13) Proposed stormwater management facilities and SCMs for sites shall be designed by a Tennessee licensed professional engineer. Hydraulic and hydrologic data shall meet Subdivision Regulation requirements. All existing and proposed drainage pipes (including gutter downspouts if extended more than ten feet from structure) shall be shown on the plan.

(14) Site improvements are subject to regulation and code requirements applicable to the type of improvement proposed.

SECTION 6. That Section 56-14 of the Code of Ordinances of the City of Brentwood, Tennessee is hereby amended to read as follows:

Sec. 56-14. Construction access routes.

Prior to the initiation of any grading work, a stabilized construction exit shall be placed at all points where traffic will be entering or leaving a construction site. Stone pads shall contain ASTM-1 stone, eight inches thick over filter fabric, with a minimum width of 20 feet and a minimum length from the public or private road of 100 feet for commercial property and 50 feet for residential property.

SECTION 7. That Section 56-15 of the Code of Ordinances of the City of Brentwood, Tennessee is hereby amended to read as follows:

Sec. 56-15. Cut and fill slopes.

Permanent cut and fill slopes shall be designed and constructed in a manner that will minimize erosion. Consideration shall be given to the length and steepness of the slope, the soil type, upslope drainage area, groundwater conditions and other applicable factors. Any slopes installed at two-foot horizontal to one-foot vertical shall be stabilized with acceptable design methods.

SECTION 8. That Section 56-16 of the Code of Ordinances of the City of Brentwood, Tennessee is hereby amended to read as follows:

Sec. 56-16. Stabilization of denuded areas and soil stockpiles.

Any area of land from which the natural vegetative cover has been either partially or wholly cleared by land disturbing activities shall be stabilized. Stabilization measures shall be initiated as soon as possible in portions of the site where construction activities have temporarily ceased. Temporary or permanent soil stabilization for the disturbed area must be completed no later than fourteen (14) days after land disturbing activities in that portion of the site have temporarily or permanently ceased. The land disturbing activities with slopes greater than 25% temporary or permanent soil stabilization for the disturbed area must be completed no later than seven (7) days after land disturbing activities in that portion of the site have temporarily or permanently ceased. Any temporary soil stockpiles shall be stabilized or protected with sediment trapping measures to prevent erosion. Applicable erosion prevention and sediment control measures shall include establishment of vegetation, mulching and the early application of gravel base on areas to be paved. Selected permanent or temporary erosion prevention and sediment control measures shall be appropriate for the time of year, site conditions and estimated duration of use.

SECTION 9. That Section 56-17 of the Code of Ordinances of the City of Brentwood, Tennessee is hereby amended to read as follows:

Sec. 56-17. Establishment of temporary or permanent vegetation.

Any area of land from which the natural vegetative cover has been either partially or wholly cleared by disturbance activities shall be stabilized. Stabilization measures shall be initiated as soon as possible in portions of the site where construction activities have temporary or permanently ceased. Temporary or permanent soil stabilization at the construction site (or a phase of the project) must be completed no later than fourteen (14) days (or seven (7) days for steep slopes) after the construction activity in that portion of the site has temporarily or permanently ceased. In the following situations, temporary stabilization measures are not required:

(a) Where the initiation of stabilization measures is precluded by snow cover or frozen ground conditions or adverse soggy ground conditions, stabilization measures shall be initiated as soon as practicable; or

(b) Where construction activity on a portion of the site is temporarily ceased and earth disturbing activities will be resumed within fourteen (14) days (or seven (7) days for steep slopes).

Permanent stabilization with perennial vegetation (using native herbaceous and woody plants where practicable) or other permanently stable, non-eroding surface shall replace any temporary measures as soon as practicable. A permanent vegetative cover shall be established on denuded areas not otherwise permanently stabilized through the construction of approved structures and parking lots or driveways. Unpacked gravel containing fines (silt and clay sized particles) or crusher runs will not be considered a non-eroding surface. The following criteria shall apply to stabilization efforts:

(a) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over seventy percent (70%) of the seeded area.

(b) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.

(c) Any area of stabilization must exhibit survival of a minimum of seventy percent (70%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy percent (70%) survival for one (1) year is achieved.

(d) In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, by who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.

SECTION 10. That Section 56-18 of the Code of Ordinances of the City of Brentwood, Tennessee is hereby amended to read as follows:

Sec. 56-18. Protection of adjacent properties.

(a) Downhill protection. All properties adjacent to and/or downhill from the site of a land disturbance shall be protected from soil erosion and sedimentation. This shall be accomplished by preserving a well-vegetated buffer strip around the lower perimeter of the land disturbance or by installing perimeter controls such as sediment barriers, berms or dikes, diversions, filters, or sediment basins, or by a combination of such measures.

(b) Use of buffer strips. Vegetated buffer strips shall be used alone only where stormwater runoff is anticipated to occur through sheet flow and shall be a minimum of 20 feet in width. If at any time it is found that a vegetated buffer strip alone is ineffective in stopping erosion onto adjacent property, additional perimeter controls shall be provided by the owner.

(c) Sediment control. Sediment basins and traps, perimeter dikes, sediment barriers, berms, diversions and other sediment control measures intended to trap sediment on-site shall be constructed as the first step in grading and shall be made functional prior to disturbance of upslope land. Earthen structures such as berms, embankments, dikes, and diversions shall be seeded and mulched within seven days of installation.

(d) Sediment basins and traps. For construction sites discharging to waters with available parameters for siltation/sedimentation and not classified as ETWs, construction stormwater runoff from drainage areas totaling ten (10) acres or greater to a common outfall shall pass through a sediment basin or other equivalent structural measure designed to treat the 2-year, 24-hour design storm until permanent stabilization of the upgradient areas have been achieved. For construction sites discharging to waters with unavailable parameters for siltation/sedimentation and/or ETWs, construction stormwater runoff from drainage areas between 3.5 and 4.9 acres to a common outfall shall pass through a sediment trap, for drainage areas totaling five (5) acres or greater to a common outfall shall pass through a sediment basin or other equivalent structural measure both of which shall be designed to treat the 5-year, 24-hour design storm until final stabilization in the upgradient areas have been achieved. These shall be required and designed based on the total drainage area including off-site run-on that drains to a common outfall.

(e) Stormwater runoff. All storm drainage inlets shall be protected during construction with a sediment barrier to prevent clogging and localized flooding. All means of protection shall be maintained and monitored throughout construction.

SECTION 11. That Section 56-19 of the Code of Ordinances of the City of Brentwood, Tennessee is hereby amended to read as follows:

Sec. 56-19. Inspections; corrections of problems.

(a) Permit holder's responsibility. Upon issuance of a grading permit, it shall be the responsibility of the permit holder to:

(1) Promptly notify the city in writing of any proposed changes to the phasing plan and schedules for the land disturbance activities and periodic maintenance as included in the approved land disturbance plan, provided that such proposed changes may be rejected or revised by the city; and

(2) Conduct twice-weekly inspections per the requirements of the Construction General Permit (CGP) of the erosion prevention and sediment control measures installed during construction and of nearby downstream properties, to determine if the land disturbance plan is effective. The permit holder shall make immediate arrangements for the repair or remediation of any damage to downhill property caused by erosion, such as clogged storm sewers, inlets or drainage ditches.

(b) Secondary Permittees. New operators with design or operational control of their portion of the construction site shall sign and submit an NOI as a secondary permittee and are expected to complete one of the following:

(1) Adopt, modify, update, and implement their portion of the SWPPP; or

(2) Develop and submit a SWPPP addressing only their portion of the project, as long as the proposed BMPs are compatible with the previously submitted, site-wide SWPPPs and comply with the CGP.

(c) City authority. The city's engineering director or his designee may enter upon any site for which a grading permit has been issued and periodically make inspections of any area before, during and after construction to ensure compliance with the requirements of this article and the authorized land disturbance plan. If the engineering director or his designee determines that significant erosion and/or sedimentation problems are occurring on the site, notwithstanding compliance with the approved land disturbance plan, the permit holder shall be required to take additional corrective actions to protect the adversely affected area. The specifications of the additional measures shall be considered as an amendment to the land disturbance plan. The engineering director or his designee may also require that the phasing plan and schedules for the land disturbance activities and periodic maintenance be revised at any point in order to meet the intent of this chapter.

SECTION 12. That the title of Chapter 56, Article I, Division 2, Subdivision II, of the Code of Ordinances of the City of Brentwood, Tennessee is hereby amended to read as follows: "Subdivision II. Water Quality Riparian Buffer"

SECTION 13. That Section 56-31 of the Code of Ordinances of the City of Brentwood, Tennessee is hereby amended to read as follows:

Sec. 56-31. Water Quality Riparian Buffer.

In order to create, protect and maintain water quality, water quality riparian buffers shall be established as a part of any new development or redevelopment of property bordering or traversed by waters of the state. The following provisions are hereby established for the designation, protection, and maintenance of water quality riparian buffers:

(a) Water Quality Riparian Buffers shall be designated along all waters of the state and/or streams as determined by the city, TDEC, or the United States Army Corps of Engineers. This determination shall be conducted at the preliminary planning phase.

(b) In any residential subdivision, the water quality riparian buffer, if required, shall be designated as open space. No portion of the water quality riparian buffer may be within a private lot. The water quality riparian buffer within an open space residential development (OSRD) subdivision's open space shall be counted toward the open space requirements for the subdivision at 100 percent of the water quality riparian buffer's area unless the water quality riparian buffer falls within an area for which another percentage applies.

(c) “Construction” or “temporary” water quality riparian buffers apply to all streams adjacent to construction sites with disturbances greater than or equal to one acre or part of a larger common plan of development or sale. The water quality riparian buffer area shall be preserved between the top of bank and the disturbed construction area. The buffer shall be clearly marked on land disturbance plans and grading permit applications. Each water quality riparian buffer shall be staked and labeled as part of a construction layout survey prior to commencement of construction, using a combination of stakes and flagging to ensure adequate visibility. Refer to the table below for construction water quality riparian buffer requirements.

	Average Buffer Width (feet)	Minimum Buffer Width (feet)	Notes
Waters with available parameters for siltation/sedimentation or unassessed waters	30	15	The criteria for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer area is more than the required minimum width at any measured location. If the new development or redevelopment site encompasses both sides of a stream, buffer averaging can be applied to both sides, but must be applied independently.
Exceptional Tennessee Waters or waters with unavailable parameters for siltation/sedimentation	60	30	

(d) “Permanent” water quality riparian buffers apply to all streams adjacent to developments or redevelopments with disturbances greater than or equal to one acre or part of a larger common plan of development or sale. Buffers shall be clearly marked on the land disturbance plans and final plat. Refer to the table below for permanent water quality riparian buffer requirements.

(e)

	Average Buffer Width (feet)	Minimum Buffer Width (feet)	Notes
Waters with available parameters for siltation/sedimentation or habitat alteration or unassessed waters	30	15	The criteria for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer area is more than the required minimum width at any measured location. If the new development or redevelopment site encompasses both sides of a stream, buffer averaging can be applied to both sides, but must be applied independently.
Exceptional Tennessee Waters or waters with unavailable parameters for siltation/sedimentation or habitat alteration	60	30	

(f) If the required width of a water quality riparian buffer under federal or state regulations differs from the width required by the city, the more stringent requirement shall govern. Notwithstanding the foregoing, the planning commission may reduce the width of a water quality riparian buffer if the state department of environment and conservation has authorized such a reduction.

(g) The water quality riparian buffer shall be recorded on all final plats approved on or after June 1, 2008 for property bordering or traversed by a stream, provided that the requirement for a water quality riparian buffer may be waived or reduced if an unexpired preliminary plan was approved prior to June 1, 2008 and if, in the opinion of the city, a water quality riparian buffer cannot be designated on the plat at the required width without significant impact to the approved development plan. For a final plat approved prior to June 1, 2008, the planning commission may require that any subsequent revisions provide for a water quality riparian buffer up to the extent a water quality riparian buffer would be required under this section for a new final plat if, in the opinion of the city, a water quality riparian buffer can be so designated on the plat without significant impact to the approved development plan.

(h) All site development plans and plats prepared for recording shall:

(1) Clearly identify the boundaries of any water quality riparian buffer on the subject property and label the area as "Water Quality Riparian Buffer."

(2) Provide a note to reference any water quality riparian buffer stating: "There shall be no clearing, grading, construction, or disturbance of vegetation within the water quality riparian buffer, except as permitted by the City of Brentwood."

(i) Any water quality riparian buffer or portions of any water quality riparian buffer shall also be designated as a public drainage easement if required by the planning commission, based on the recommendation of the city.

(j) The water quality riparian buffer is to remain undisturbed for the minimum required buffer except as authorized by an Aquatic Resource Alteration Permit (ARAP). The following land uses are permissible within the remaining buffer subject to approval by the city's engineering director:

(1) Greenways, biking trails, and walking trails;

(2) Infiltration-based SCMs such as infiltration trenches and bioretention areas may be allowed on a case-by-case basis if approved in writing by the city's engineering director. This can only be approved if such SCMs improve biodiversity or aesthetic appearance of the buffer area. Economics or constructability of a development cannot be used as criteria for allowing an SCM to be placed in the buffer area;

(3) Public road and watertight utility crossings that have been approved by the city's engineering director and are constructed to minimize disturbance to the water quality riparian buffer. Private drives and private utility crossings may also be approved by the city's engineering director upon review of a complete submittal demonstrating that there is no other feasible alternative route; and

(4) Select landscaping and/or habitat improvements to repair erosion, damaged vegetation, or other problems, if prior approval has been granted by the city's engineering director.

(k) Any person seeking a grading permit for property within a water quality riparian buffer shall provide evidence that appropriate permits required from federal, and state regulatory agencies or written waivers of such permits have been obtained.

(l) (If a land use adjacent to a water quality riparian buffer involves subsurface discharges or surface application from a wastewater treatment system that serves more than one household or a nonresidential use, no effluent may be discharged in the water quality riparian buffer except as provided herein. If a NPDES wastewater permit has been granted, the permittee may convey the effluent through the water quality riparian buffer to the stream designated in the NPDES permit.

(m) The city may require a Water Quality Riparian Buffer on disturbances less than one acre at the discretion of the city.

SECTION 14. That Section 56-42 of the Code of Ordinances of the City of Brentwood, Tennessee is hereby amended to read as follows:

Sec. 56-42. Stormwater management plan.

(a) Quantity requirements. A stormwater management plan shall be provided for approval by the city prior to issuance of a grading permit that provides stormwater quantity control design per the Subdivision Regulations for all new developments and redevelopments with disturbances greater than or equal to one acre or part of a common plan of development or sale or at the discretion of the engineering department.

(b) Quality requirements. A stormwater management plan, long-term operation and maintenance plan, and long-term maintenance agreement shall be provided for approval by the city prior to issuance of a grading permit that provides stormwater quality design per the Subdivision Regulations for all new developments and redevelopments that meet one of the following:

(1) Disturbances greater than or equal to one acre or part of a common plan of development or sale;

(2) Non-residential properties that discharge stormwater to waters with unavailable parameters for siltation/sedimentation; or

(3) Other developments or redevelopments at the discretion of the city.

(c) Improvements required. The engineering department may require additional SCMs, stormwater management systems, or other improvements designed to control the level, intensity, and quality of stormwater runoff associated with the development, above and beyond the requirements outlined in the city's subdivision regulations, if local conditions warrant such additional measures.

(d) As-Builts. For grading permits that require SCMs, all permittees are required to submit an as-built plan for all SCMs located on-site within 90 days after final construction is completed. The plans must be sealed by a Registered Professional Engineer or Landscape Architect. The plans shall include the following:

(1) Location maps of SCM(s) within project site;

(2) An engineer's certification letter certifying that the SCM(s) have been installed to meet the performance standards of the Subdivision Regulation requirements and provide full treatment capacity within 72 hours following the end of the proceeding rain event;

(3) Description of any variation from the approved design plans and specifications, if any;

(4) As-built design parameters including but not limited to invert elevations, outlet structure elevations, subbase layer depths, etc.;

(5) The responsible party contact information;

(6) Inspection schedule(s);

(7) A brief description of or reference to maintenance procedures and frequency; and

(8) Photographs of installed SCMs.

(e) Location/maintenance required. All structures or other improvements constructed to meet the requirements of this article shall remain in the ownership of the property owner, who shall be responsible for maintaining such improvements in accordance with section 56-43. In addition, any such structures or other improvements within a residential subdivision shall be located within permanent designated open space for the subdivision with the legally designated homeowners or property owners' association being responsible for such maintenance. Prior to the recording of lots for a subdivision, subdivision covenant provisions, or other legal documents ensuring the maintenance of such improvements and funding mechanism for said maintenance in perpetuity shall be submitted to the city attorney for his review and approval.

SECTION 15. That Section 56-43 of the Code of Ordinances of the City of Brentwood, Tennessee is hereby amended to read as follows:

Sec. 56-43. Stormwater system long-term operation and maintenance.

(a) SCM Inspection Requirements.

(1) Routine inspection of all SCMs shall be performed by the owner/operator or other qualified professional at minimum on an annual basis or more frequently as required by the long-term maintenance plan. These inspections shall be conducted by a person familiar with the SCM(s) implemented on site. Owners/operators shall maintain documentation of these inspections.

(2) Comprehensive inspections of all SCMs must be performed once every five years by a Professional Engineer or Professional Landscape Architect. Complete inspection reports for these five-year inspections shall include:

a. SCM Locations(s);

b. Brief description of the SCM(s) type and basin design characteristics;

c. Description of current SCM conditions;

d. Inspection date;

e. Specific maintenance items or violations that need to be corrected by the SCM owner/operator along with timeline for maintenance;

f. Maintenance records, if any; and

g. Current photo of SCM(s)

(3) Inspections, whether routine or comprehensive, shall be submitted per the schedule above to the City by July 1st.

(b) Stormwater Drainage System Inspection and Maintenance. All storm drainage systems, structures and facilities shall be maintained such that the original design function is preserved over time. The storm drainage elements requiring maintenance shall include, but not be limited to, stormwater management systems, SCMs, and emergency overflows. These elements shall be maintained in accordance with a written "stormwater long-term operation and maintenance plan" developed by a Tennessee licensed professional engineer and approved by the city. Said plan shall be attached to and form a part of a maintenance and inspection agreement, which shall be signed by the property owner or an official representative thereof, and recorded along with the plat, covenants, or other homeowners/property owners' association documents. The form of the maintenance and inspection agreement and plan shall be approved by the city attorney. The agreement must contain a provision that grants access to the engineering director or his designee at any reasonable time for inspection of the facilities covered by the plan.

(c) All stormwater long-term operation and maintenance plans shall include detailed operation and maintenance procedures to ensure the continued performance of the facilities. Each plan shall identify the parts or components of a stormwater management facility or SCM to be maintained and the necessary equipment and skills or training, along with an estimate of probable annual costs. Provisions for the periodic review and

evaluation of the effectiveness of the maintenance program shall be included in the plan, so that revisions and additional maintenance procedures can be incorporated as necessary. A permanent elevation benchmark shall be identified in the plan to assist in the periodic inspection of the facility.

SECTION 16. That Section 56-44 of the Code of Ordinances of the City of Brentwood, Tennessee is hereby amended to read as follows:

Sec. 56-44. Illicit discharges and connections.

(a) Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the MS4 any discharge that is not composed entirely of stormwater or any discharge that flows from a stormwater facility that is not inspected in accordance with Section 56-43 shall be an illicit discharge. Non-stormwater discharges shall include, but shall not be limited to, sanitary wastewater, commercial car wash wastewater, lawn mowing debris, lawn care chemicals, grease, soap, cleaning chemicals, radiator flushing disposal, spills from vehicle accidents, carpet cleaning wastewater, effluent from septic tanks, improper oil disposal, laundry wastewater/gray water, improper disposal of auto and household toxics. The commencement, conduct or continuance of any non-stormwater discharge to the MS4 is prohibited except as described below:

(1) Uncontaminated discharges – performed in a non-erosive manner – from the following sources:

a. Water line flushing or other potable water sources, dechlorinated to potable water standards,

b. Landscape irrigation with potable water,

c. Diverted stream flows,

d. Rising ground water,

e. Uncontaminated groundwater infiltration (infiltration is defined as water other than wastewater that enters a sewer system, including sewer service connections and foundation drains,

f. Uncontaminated pumped groundwater,

g. Discharges from potable water sources,

h. Foundation drains,

i. Air conditioning condensate,

j. Irrigation water,

k. Springs,

l. Water from crawl space pumps,

m. Footing drains,

n. Lawn watering,

o. Individual residential car washing,

p. Flows from riparian habitat or wetlands,

q. Saltwater and chlorinated non-commercial swimming pools (if de-salinated and dechlorinated – typically less than one (1) PPM chlorine),

r. Street wash water, and

s. Discharges or flows from firefighting activities.

(2) Discharges specified in writing by the city as being necessary to protect public health and safety.

(3) Dye testing if the city has so specified in writing.

(4) Discharges authorized by Section 1.2.3. of the CGP, which comply with section 4.1.3. of the same:

a. Dewatering of work areas of collected stormwater and groundwater (filtering or chemical treatment may be necessary prior to discharge);

b. Waters used to wash vehicles (of dust and soil, not process materials such as oils, asphalt, or concrete) where detergents are not used and detention and/or filtering is provided before the water leaves the site;

c. Waters used to control dust in accordance with CGP Section 5.5.3.7.;

d. Potable water sources, include waterline flushings, from which chlorine has been removed to the maximum extent practicable;

e. Routine external building washdown that does not use detergents or other chemicals;

f. Uncontaminated, non-turbid groundwater or spring water;

g. Fire hydrant flushings;

h. Landscape irrigation;

i. Pavement wash waters, provided spills or leaks or other toxic or hazardous substances have not occurred (unless all spill material has been removed) and where soaps, solvents, and detergents are not used; and

j. Uncontaminated air conditioning or compressor condensate.

(b) Prohibition of illicit connections. The construction, use, maintenance, or continued existence of illicit connections to the MS4 system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(c) Reduction of stormwater pollutants by the use of best management practices. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the owner's expense, the BMPs or SCMs necessary to prevent the further discharge of pollutants to the MS4 system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. Discharges from existing SCMs that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit.

(d) Notification of spills. Notwithstanding other requirements of law, upon the release or suspected release of materials which is resulting in or may result in illicit discharges, the owner of the property from which the release occurs or is suspected, or any person responsible for a facility or operation from which the release occurs or is suspected, or any person responsible for emergency response for such a facility or operation shall:

(1) Take all necessary steps to ensure the discovery, containment, and cleanup of such release. Any such property owner or other person who fails to take such necessary steps shall be in violation of this section.

(2) Immediately notify emergency response agencies of the occurrence via emergency dispatch services if the release or suspected release involves hazardous materials.

(3) Notify the city in person or by telephone no later than the next business day in the event of a release or suspected release of non-hazardous materials. Notifications by telephone shall be confirmed by written notice delivered to the engineering department within three business days of the telephone notice.

(4) Retain an on-site written record of the discharge and the actions taken to prevent its recurrence if the discharge of prohibited materials emanates from a commercial or industrial establishment. Such records shall be retained for at least three years.

(e) No illegal dumping allowed. No person shall dump or otherwise deposit outside an authorized landfill, convenience center or other authorized garbage or trash collection point, any trash or garbage of any kind or description on any private or public property, occupied or unoccupied, inside the city.

(f) Priority areas. The city is authorized to regulate priority areas. Upon written notification by the city, the property owner or designated facility manager of a priority area shall, at their expense, implement necessary controls and/or best management practices to prevent discharge of contaminated stormwater to the MS4 system. The

city may require the facility to maintain inspection logs or other records to document compliance with the paragraph.

(g) Requirements for construction site operators. Construction site operators are required to control wastes such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at construction sites within the jurisdiction to avoid adverse impacts to water quality.

SECTION 17. That Section 56-51 of the Code of Ordinances of the City of Brentwood, Tennessee is hereby amended to read as follows:

Sec. 56-51. Correction of soil erosion, stormwater runoff or illicit discharge problems; enforcement actions.

(a) The city's engineering director is authorized to take enforcement actions as established in the city's enforcement response plan and as outlined in this section against:

(1) The owner of any property which exhibits stormwater runoff conditions, illicit discharges or unstable or eroding soil conditions resulting from a violation of a provision of this article.

(2) The owner of any property who has failed to adequately maintain and repair temporary or permanent erosion prevention and sediment control measures, stormwater management facilities, or illicit discharge prevention measures as needed to assure continued performance of their intended function.

(b) Whenever the engineering director finds that any person has violated or is violating this article, or a condition of any permit or order issued hereunder, or the requirements of a land disturbance plan, stormwater management plan, or stormwater long-term operation and maintenance plan, enforcement actions taken by the director may include any of the measures described below, or such combinations of the measures described below as the engineering director determines to be appropriate under the circumstances. The implementation of any of the measures described below shall not preclude other remedial or punitive actions which may be taken under this Code or other applicable law.

(1) Notice of violation. The director may serve upon such person written notice of the violation. Where an immediate threat to public health and safety exists, verbal notice given by the engineering director or his designee to immediately correct the problem shall be sufficient, but shall be followed by written notice. Within ten days of receiving the initial notice, the recipient shall submit an explanation of the violation to the director, along with a plan for the satisfactory correction of the violation and prevention of future violations, including specific required actions. Submission of this plan in no way relieves any person of liability for any violations occurring before or after receipt of the notice of violation.

(2) Consent orders. The director is authorized to enter into consent orders, assurances of voluntary compliance, or other similar documentation establishing an agreement with the person responsible for the noncompliance. Such orders are to include specific action to be taken to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to subsections (4) and (5) below.

(3) Administrative hearing. The director may order such person to show cause why a proposed enforcement action should not be taken. Notice shall be served on such person specifying the time and place for the hearing, the proposed enforcement action and the reasons for such action, and the opportunity for the violator to show cause why the proposed enforcement action should not be taken. The notice shall be served personally or by certified mail (return receipt requested) at least ten days prior to the hearing.

(4) Compliance order. The director may issue an order to such person, directing that the violation be corrected within a specific time period. Corrective action ordered by the director may include, but is not limited to, the installation and proper operation of adequate structures and/or devices, and the implementation of procedures. Orders may also contain such other requirements as might be

reasonably necessary and appropriate to address the noncompliance, including but not limited to the establishment of management practices and self-monitoring plans.

(5) Cease and desist/stop work orders. The director may issue an order to cease and desist all such violations and direct any person in noncompliance to:

a. Stop all construction activities, or at the director's discretion, all portions of the construction activities that are contributing to a violation;

b. Comply forthwith with the provisions of this article and the conditions of any permit or order issued hereunder; and/or

c. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating stormwater runoff conditions, illicit discharges or unstable or eroding soil conditions.

(6) Permit revocation. The director may revoke any permit issued by the city for construction activities on the property.

(c) Should the property owner fail to comply with any provision of this article, any condition of a permit or order issued hereunder, or the requirements of a land disturbance plan, stormwater management plan, or stormwater long-term operation and maintenance plan within the time prescribed by the city's engineering director, the director may direct that the violation be remedied by an appropriate city department or through an outside contractual arrangement. Upon completion of work, the engineering department shall determine the reasonable costs thereof and bill the owner of the property. Should the owner fail to remit to the city the amount due within 30 days from the date of the bill, the amount due shall be certified to the city attorney, who may undertake such legal action as may be needed to collect the amount due, including an action to attach a lien to the property for which the expenditure was made.

SECTION 18. If any section, subsection, clause, provision or portion of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, subsection, clause, provision or portion of this ordinance

SECTION 19. That this ordinance shall take effect from and after its final passage and publication thereof, or fifteen days after its first passage, whichever occurs later, the general welfare of the City of Brentwood, Williamson County, Tennessee, requiring it.

Passed: 1st Reading 08/12/2024 Planning Commission N/A

2nd Reading 08/26/2024 NOTICE OF PASSAGE

Notice of Published in: Williamson Herald

Date of Publication: 08/29/2024

PUBLIC HEARING

Notice of Published in: N/A

Date of Publication: _____

Date of Hearing: _____ EFFECTIVE DATE 08/29/2024

DocuSigned by:
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Mayor Mark W. Gorman

DocuSigned by:
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Recorder Holly Earls

Approved as to form:

DocuSigned by:
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City Attorney Kristen L. Corn