

## **ORDINANCE 2021-20**

### **AN ORDINANCE OF THE CITY OF BRENTWOOD, TENNESSEE PROVIDING THAT THE CODE OF ORDINANCES OF THE CITY OF BRENTWOOD BE AMENDED BY REVISING VARIOUS SECTIONS OF CHAPTER 56, ARTICLE I, DIVISIONS 1 AND 2 IN REGARD TO REGULATIONS GOVERNING STORMWATER MANAGEMENT AND EROSION CONTROL**

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

**WHEREAS**, the proposed amendments set forth in this ordinance will allow the City to continue to protect the health and safety of residents and to preserve adjoining or nearby properties, including hilltops, hillsides, waterways, vegetation, structures and other natural and manmade features, through the regulation of land disturbances and stormwater runoff and the imposition of erosion control and stormwater management measures.

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

**SECTION 1.** That section 56-2 of Chapter 56 Article I, Division 1, of the Code of Ordinances of the City of Brentwood shall be amended by adding the following definitions:

*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.

*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 Zoning Ordinance.

**SECTION 2.** That section 56-11 of Chapter 56, Article I, Division 2, Subdivision I of the Code of Ordinances of the City of Brentwood shall be amended to read as follows:

- (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's engineering department. 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. Any commercial developments and residential subdivision developments are subject to the subdivision regulations pertaining to stormwater quantity and quality requirements.
- (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's engineering department. 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 disturbance 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 grades, 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 3.** That section 56-12 of Chapter 56, Article I, Division 2, Subdivision I of the Code of Ordinances of the City of Brentwood shall be amended to read as follows:

The following uses and activities shall be exempt from the requirements for a grading permit:

- (1) *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 control requirements set forth in subsection 56-13(3).
- (2) *Driveway.* The construction of a 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 control requirements set forth in subsection 56-13(3) and code requirements.
- (3) *Additions or modifications to existing structures or lots.* The modification to an existing structure or lot including a residential 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 control requirements set forth in subsection 56-13(3).
- (4) *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; provided, however, that such land-disturbing activity shall otherwise comply fully with the rules and regulations set forth by TDEC and this article.
- (5) *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.)
- (6) *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's engineering department.

**SECTION 4.** That section 56-13 of Chapter 56, Article I, Division 2, Subdivision I of the Code of Ordinances of the City of Brentwood be amended to read as follows:

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.

- (1) *Basic plan requirements.* The plan shall identify the specific and appropriate erosion control practices and sediment trapping facilities 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 stabilization of the site when temporary measures are removed, permanent stormwater conveyance structures and maintenance requirements for any permanent measures.
- (2) *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 five acres, affects parking areas, or when potentially hazardous soil or drainage conditions exist due to types of soils, steep grades, floodplain development or nearby lakes, streams or large drainage ditches.
  - (3) *Erosion control.* Erosion control measures shall be designed and carried out in accordance with the TDEC Construction General Permit for Storm Water Discharge and the requirements of the city's Best Management Practices Manual. Areas that are to be developed or excavated shall apply these guidelines, fitting the appropriate measures to the specific soils and topography so as to minimize soil erosion and surface water runoff. The erosion control measures shall be maintained, and replaced if necessary, until vegetative cover is significantly established.
  - (4) *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.
  - (5) *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:
    - a. The registration seal and signature of the Tennessee licensed professional engineer or landscape architect who prepared the plan.
    - b. Name, address and telephone number of the applicant, and the owners and developer, if other than the applicant, of the property to be graded.
    - c. Email address for the design engineer or landscape architect.
    - d. A brief project description.
    - e. Current field run topography and actual elevations based on an identified benchmark by a Tennessee licensed professional 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.
    - f. 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 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.
    - g. The location and a description of temporary and permanent erosion control measures and drainage apparatuses to be constructed 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.
    - h. Vicinity map with legible street names. Address, and Zoning in title block. Include subdivision and lot number where applicable. Adjacent lot numbers and parcel data. Include recorded plat book and page number in title block.
    - i. Standard details to include typical drainage swales, silt fence, temporary construction entrance, tree protection, retaining walls (if applicable) sealed by a Tennessee licensed professional engineer for walls that are four feet or greater in height, and additional items as necessary to mitigate the adverse impact of land disturbance.
    - j. Property lines with bearing and distances to two decimal places. Building setbacks, easements, and all public utilities shown, labeled and dimensioned.

- k. Proposed contours distinguishable from existing contours. Spot elevations as necessary for proposed improvements. Site elevations, existing LFE, proposed LFE, minimum LFE.
- l. Retaining walls greater than four feet in height shall be certified by a Tennessee licensed professional engineer upon completion. Retaining wall heights to meet Subdivision Regulation and Municipal Code requirements.
- m. Drainage for sites shall be designed by a Tennessee licensed professional engineer. Hydraulic and hydrologic data to meet Subdivision Regulation requirements. All existing and proposed drainage pipes (including gutter downspouts if extended more than 10 feet from structure) shall be shown on the plan.
- n. Site improvements are subject to regulation and code requirements applicable to the type of improvement proposed.

**SECTION 5.** That section 56-15 of Chapter 56, Article I, Division 2, Subdivision I of the Code of Ordinances of the City of Brentwood be amended to read as follows:

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 as provided in the subdivision regulations.

**SECTION 6.** That section 56-16 of Chapter 56, Article I, Division 2, Subdivision I of the Code of Ordinances of the City of Brentwood be amended to read as follows:

Permanent erosion control measures shall be applied to denuded areas within 14 days after final grade is reached on any portion of the site. Soil stabilization shall also be applied within 14 days to any denuded area which may not be at final grade but will remain dormant (undisturbed by construction activity) for longer than 60 days. Any temporary soil stockpiles shall be stabilized or protected with sediment trapping measures to prevent erosion. Applicable erosion 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 control measures shall be appropriate for the time of year, site conditions and estimated duration of use.

**SECTION 7.** In case of conflict between this ordinance or any part hereof, and the whole or part of any existing ordinance of the City, the provision that establishes the higher standard shall prevail.

**SECTION 8.** 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 9.** 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 08-23-2021

2nd reading 09-13-2021

PUBLIC HEARING

Notice published in: n/a

Date of publication:                     

Date of hearing:                     

PLANNING COMMISSION n/a

NOTICE OF PASSAGE

Notice published in: n/a

Date of publication:                     

EFFECTIVE DATE 09-13-2021

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MAYOR

Rhea E. Little, III

DocuSigned by:



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RECORDER

Holly Earls

*Approved as to form:*

DocuSigned by:



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CITY ATTORNEY

Kristen L. Corn