

ORDINANCE NO. 20-1062

BE IT ORDAINED by the City Council of the City of Huntsville, Alabama as follows:

Section 1. The Code of Ordinances of the City of Huntsville, Alabama, Chapter 12, **Article VI** is hereby amended to read as follows:

ARTICLE VI. STORMWATER MANAGEMENT

Sec. 12-331. Stormwater management manual.

(a) *Incorporation by reference.* The City of Huntsville Stormwater Management Manual, 2020 Edition, a technical code of the city referenced and adopted in section 12-1 of this chapter, and adopted by Ordinance No. 20-1022, (hereinafter referred to as “stormwater management manual” or “manual”), is hereby incorporated into this article by reference as if fully set forth herein, and when reference is made to this article it shall mean and include the stormwater management manual, its regulations, standards, and technical guidelines, as such may be amended from time to time.

(b) *City engineer to administer and enforce manual.* The director of city engineering is hereby authorized to administer and enforce this article, including the provisions of the stormwater management manual, and to act through duly authorized representatives. Where the term “city engineer” is used in this article it shall mean and include the city engineer and his/her authorized representatives.

Sec. 12-332. Violations; remedies; enforcement.

(a) *Violations.* Subject to subsection (b), it shall be unlawful and a misdemeanor for any person to:

- (1) Violate any provision of this article or fail to comply therewith;
 - (2) Violate the provision of any permit issued pursuant to this article, including the stormwater management manual incorporated herein by reference;
 - (3) Fail or refuse to comply with any lawful order or notice to abate or remediate a violation of this article issued by the city engineer;
 - (4) Violate the provisions of conditions and safeguards established in connection with the enforcement and administration of this article, including conditions or safeguards imposed by the director of city engineering in connection with permits or approvals issued pursuant to this article; or
 - (5) Fail to maintain any low impact development/green infrastructure element or detention pond required pursuant to the stormwater management manual.
- The violation of or the noncompliance with each individual requirement, rule, order or regulation, and each day's continuation thereof, shall constitute a separate and distinct offense.

(b) Where the city engineer has issued a verbal warning or notice of violation (NOV) pursuant to the stormwater management manual, the city engineer may allow the alleged violator a period of remediation before a citation is issued for a violation hereunder.

(c) *Penalty.* The penalty provisions of section 1-7 of this Code shall apply to a violation of this article.

(d) *Injunctive relief.* In addition to the imposition of the penalties herein described and other remedies provided by law, the city shall have the right to injunctive relief for a violation of this article.

(e) *Remedies not exclusive.*

(1) This article shall be cumulative to and in furtherance of any statutory, common law, or other legal right, duty, power, or authority possessed by the city. Compliance with this article shall not excuse any person from compliance with any other federal, state or local law, ordinance, regulation, rule or order.

(2) Nothing in this article shall limit the authority of the city engineer to take such other or additional enforcement action as may be allowed under the stormwater management manual.

(g) *Existing authorities.* Nothing in this article shall be construed to limit the existing authority of the city to enforce rules and regulations regarding: (a) charges, limits and restrictions on the discharge of waste into the sanitary sewerage system of the city; (b) health or sanitation ordinances of the city enforced by the county health department; or (c) ordinances governing the sanitation of premises where animals are kept.

(f) *Providing false information and tampering prohibited.* It shall be unlawful for any person to provide false information to the city engineer or anyone working under the city engineer's supervision when such person knows or has reason to know that the information provided is false, whether such information is required by this article or any approval granted under this article.

Section 2. The Code of Ordinances of the City of Huntsville, Alabama, Chapter 21, Article III, Division 2, Subdivision II, **Section 21-358** is hereby amended to read as follows:

Sec. 21-358. - Appeal of denial, revocation or suspension of BMP plan approvals.

(a) The director of urban development (“urban development director”), or such other city official as the Mayor may designate, (hereinafter referred to as “hearing officer”) is authorized to hear and decide appeals from a person denied a BMP plan approval required by this division or a holder whose BMP plan approval under this division is revoked or suspended. The appellant may commence the appeal by filing a written notice of appeal, specifying the grounds for the appeal, with the director and the hearing officer within 15 days following receipt of the director's notice of denial, notice of revocation, or notice of suspension.

(b) The hearing officer shall hear and decide such appeal within a reasonable time following his/her receipt of the notice of appeal. The director and appellant shall be notified, in writing of the date and time of such hearing at least five days prior to the scheduled date of the hearing.

(c) At the hearing, the director shall state his grounds for denying, revoking or suspending the BMP plan approval and shall provide any evidence supporting such denial, revocation or suspension. The appellant may appear in person or be represented by an authorized

representative. Failure of the appellant to appear in person or through an authorized representative shall be deemed to be a withdrawal of the appeal. Evidence on the appellant's behalf may be presented at such hearing. The hearing officer shall affirm the director's decision if any reason for his denial, revocation or suspension is a valid ground, as set forth in section 21-352, 21-356 or 21-357, respectively, and the existence of such ground is supported by a preponderance of the evidence. The decision of the hearing officer shall either sustain the decision of the director or reverse or vary the decision of the director, specifying the manner in which any variations shall be made, the conditions upon which they are to be made and the reasons. The director and the appellant shall be notified in writing of the hearing officer's decision within five days of the close of the hearing. Every decision of the hearing officer shall be final, subject, however, to such remedy as any aggrieved party may have at law or in equity. Every decision shall be filed in the office of the director.

Section 3. The severability provisions of section 1-8 of the Code of Ordinances of the City of Huntsville, Alabama are specifically included herein by reference as if fully set forth.

Section 4. This Ordinance shall become effective upon its adoption and publication.

ADOPTED this the 17th day of December, 2020.

/s/ Jennie Robinson

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 17th day of December, 2020.

/s/ Tommy Battle

Mayor of the City of Huntsville,
Alabama