

ORDINANCE NO. 2026-149

**ORDINANCE ADOPTING POST-CONSTRUCTION STORMWATER MANAGEMENT
REGULATIONS FOR THE CITY OF MADISON, ALABAMA**

WHEREAS, pursuant to Sections 11-50-50 and 11-50-54 of the *Code of Alabama* (1975), all municipalities may make all needful provisions for the drainage of such municipality and shall have the power to prescribe the location and manner in which drainage from private premises may be disposed of; and

WHEREAS, the City of Madison, Alabama (the “City”), operates under the requirements of the Alabama Department of Environmental Management (“ADEM”) National Pollutant Discharge Elimination System (“NPDES”) Permit; and

WHEREAS, the NPDES Permit authorizes stormwater discharges from the municipal separate storm sewer system (“MS4”); and

WHEREAS, the City must be compliant with the ADEM NPDES Permit by developing, implementing, and enforcing a program to address post-construction stormwater management; and

WHEREAS, the City finds it necessary to enact an ordinance to address and enforce post-construction stormwater management standards on qualifying sites to prevent or minimize water quality impacts and ensure that the volume and velocity of post-construction stormwater runoff is not significantly exceeded for the life of the property’s use to the maximum extent practical.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Madison, Alabama, as follows:

SECTION 1. Purpose and Scope.

The primary purpose of this Ordinance is to protect, maintain, and enhance the public health, safety, environment, and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased stormwater runoff, nonpoint and point source pollution associated with development and redevelopment, and to minimize public and private losses due to flood conditions through the regulation of stormwater discharges from land developments.

This Ordinance establishes methods for controlling the discharge of pollutants from land developments to the City of Madison, Alabama (the “City”)’s municipal separate storm sewer system (the “MS4”) and local waterways in order to comply with requirements of the Individual Phase II National Pollutant Discharge Elimination System (“NPDES”) Permit (“MS4 Permit”), required by the federal Clean Water Act, 33 U.S.C. § 1251 et seq. (1972), and supported by the Alabama Water Pollution Control Act, *Code of Alabama* 1975, § 22-22-1.

This Ordinance establishes methods for controlling stormwater volume and peak discharges from land developments in order to minimize public and private losses due to poor drainage or flood conditions. The objectives of the post-construction stormwater ordinance are:

- A. To minimize or, if possible, eliminate the contribution of pollutants to the MS4 from, or caused by, stormwater discharges from new land developments or redevelopments;
- B. To require landowners and developers to implement systems of appropriate structural and/or non-structural best management practices (“BMPs”) to reduce the discharge of pollutants in post-construction runoff to the maximum extent practicable.

- C. To encourage the use of low impact site design practices, such as the use of vegetated stormwater conveyances and the preservation of green space and other conservation areas, to the maximum extent practicable.
- D. To provide general standards and design criteria for post-construction BMPs to regulate the volume and peak discharge of stormwater discharges from new land developments or redevelopments.
- E. To incorporate general performance criteria for post-construction stormwater management including the requirement that post-construction runoff mimic pre-construction hydrology of the site in accordance with City of Madison Ordinance Number 2019-323 “Adopting State and Federal Standards for the Prevention of Flood Damage”.
- F. To set the Basis of Design for post-construction BMPs as the 1.14-inch rainfall over a 24-hour period, preceded by a 72-hour antecedent dry period in accordance with “City of Madison Design Standards for Proposed Stormwater Detention/Retention Facilities”.
- G. To outline administrative procedures for the submission, review, and approval of post-construction stormwater management plans, for the inspections of approved projects, and to ensure appropriate long-term maintenance.
- H. To establish design and review criteria for the construction, function, and use of structural BMPs that may be used to meet the minimum post-construction stormwater management standards;
- I. To provide for adequate long-term operation and maintenance of the structural practices installed to comply with this chapter and the City of Madison MS4 permit. Establish provisions for the long-term responsibility for and maintenance of the stormwater management systems to ensure that they continue to function as designed, are maintained appropriately, and pose no threat to public safety or public health.
- J. To establish legal authority to require the plans and permits, and carry out all inspections, surveillance, monitoring, and enforcement, necessary to ensure compliance with this chapter and the City of Madison MS4 permit.

SECTION 2. Applicability.

This Ordinance shall be applicable to all public and private developments and redevelopments that result in a land disturbance of a minimum of 25,000 square feet or is part of a larger common plan of development that has or will disturb 25,000 square feet or greater of land. This includes, but is not limited to, site plan applications, subdivision applications, and grading/land disturbance applications. The following are exempted or excluded from these requirements:

- A. Activities exempt from permit requirements of Section 404 of the Federal Clean Water Act, as specified in 40 CFR 232 (primarily ongoing farming and forestry activities);
- B. Single family residential construction on an individual lot that is not part of a larger common plan of development and disturbs less than 25,000 square feet;
- C. A development that cumulatively disturbs less than 25,000 square feet and is not part of a larger common plan of development;
- D. Any land development which has received stormwater management plan approval prior to the effective date of this Ordinance and substantial progress is made within six months of the effective date of this Ordinance;
- E. Home gardens, landscaping on individual residential lots (excluding landscaping performed by, or on behalf of, a developer or builder who builds a house on any such lot that is an applicable land development, as defined in this chapter), home repairs, home maintenance work, the

maintenance or repair of accessory structures, and other related activities which result in minor land disturbances;

- F. Individual connections for utility or sewer services for single or two-family residences, minor grading for driveways, yard areas, and sidewalks, excluding any service connection or any grading done by, or on behalf of, a developer or builder who builds a house on any such lot that is an applicable land development, as defined in this chapter; and
- G. Utility installation, maintenance, repair, and extension for both above-ground and underground utilities, including sewer lines. The construction of utility buildings, service stations, junction stations, substations, treatment plants, and other utility related spaces or buildings is not exempt if construction will result in a land disturbance of one acre or greater.

Nothing contained in this Ordinance shall relieve an owner of any obligations or duties imposed under any other statutory or common law.

SECTION 3. Definitions.

The following words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section. Definitions not expressly prescribed herein are to be construed in accordance with terms defined in Ordinance No. 2015-37, codified as Sections 20-400 through 20-422 and Ordinance No. 2015-38, codified as Section 20-440 through 20-448 of the Madison City Code respectively, the Federal Clean Water Act (33 U.S.C. § 1251, et seq., as amended), Alabama Water Pollution Control Act of 1975 (ALA. CODE § 22-22-1 (1975), as amended), the regulations promulgated with respect to those laws, and the City's MS4 permit. Terms not otherwise defined shall be construed in accordance with customary usage in municipal planning and engineering practice.

Alabama Department of Environmental Management (ADEM) shall have the meaning provided in the Chapter 20, Article VIII of the Madison City Code.

Alabama Handbook for Erosion Control, Sediment Control, and Stormwater Management on Construction Sites and Urban Areas (Handbook) shall have the meaning provided in the Chapter 20, Article VIII of the Madison City Code.

Authorized Enforcement Agent (Agent) shall have the meaning provided in the Chapter 20, Article VIII of the Madison City Code.

Best Management Practices (BMPs) shall have the meaning provided in the Chapter 20, Article VIII of the Madison City Code.

City shall have the meaning provided in the Chapter 20, Article VIII of the Madison City Code.

City Engineer means the Director of the City of Madison Engineering Department or his/her designee.

Clean Water Act ("CWA") means the Federal Clean Water Act codified at 33 U.S.C. § 1251, et seq., as amended (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972).

Clearing shall have the meaning provided in the Chapter 20, Article VIII of the Madison City Code.

Design Standards mean the "City of Madison Design Standards for Proposed Stormwater Detention/Retention Facilities".

Director means the Director of the City of Madison Engineering Department or his/her designated representative.

Drainageway shall have the meaning provided in the Chapter 20, Article VIII of the Madison City Code.

Erosion and Sediment Control Plan shall have the meaning provided in the Chapter 20, Article VIII of

the Madison City Code.

Erosion Control shall have the meaning provided in the Chapter 20, Article VIII of the Madison City Code.

Federal Emergency Management Agency (“FEMA”) means the federal agency established in 1979 by executive order of the President of the United States to coordinate the federal government's role in preparing for, preventing, mitigating the effects of, responding to, and recovering from all domestic disasters, whether natural or man-made, including disasters caused by flooding.

Grading shall have the meaning provided in the Chapter 20, Article VIII of the Madison City Code.

Green Infrastructure Practice means systems and practices that use or mimic natural processes to infiltrate, evapotranspire (the return of water to the atmosphere either through evaporation or by plants), or reuse stormwater or runoff on the land development where it is generated. Green infrastructure practices identified in the design manual include, but are not limited to, bioretention area, cistern, downspout disconnection, dry water quality swale, enhanced swale, green roof, infiltration trench, permeable pavement, reforestation, sheet flow, and urban bioretention.

Impervious Surface means surfaces composed of any material that impedes or prevents the natural infiltration of water into the soil. Impervious surfaces shall include, but are not limited to, roofs, streets, driveways, parking areas, patios, sidewalks, tennis courts, solid decks, other concrete or asphalt paved areas, and any areas used (or to be used) as a vehicle driveway or travelway or for parking, whether paved, gravel, or other compacted material, unless such material is (or has been) specifically designed, installed, and maintained to allow water to pass beneath the surface.

Land Disturbance or *Land Disturbing Activity* means any change in the land which may result in soil erosion or the movement of sediment by water, wind, or other means of transport, including, but not limited to, clearing, grubbing, grading, dredging, compaction, excavation, dumping, discharging, alteration of natural or existing topography, moving, placing, or storing fill material, or any other means that causes disturbance of soil.

Land Disturbance Permit shall have the meaning provided in the Chapter 20, Article VIII of the Madison City Code.

Madison City Code means the *Code of Ordinances, City of Madison, Alabama*.

Municipal Separate Storm Sewer System (“MS4”) means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) owned or 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 a designated and approved management agency under section 208 of the Clean Water Act that discharges to waters of the United States; (ii) designed or used for collecting or conveying stormwater; (iii) which is not a combined sewer; and (iv) which is not part of a publicly owned treatment works (“POTW”) as defined in ADEM Administrative Code 355-6-6.02(nn). See 40 C.F.R. § 122.26(b)(8).

National Pollutant Discharge Elimination System Permit (“NPDES Permit”) means the regulatory license required for any facility or operation that discharges pollutants (like wastewater or stormwater) directly into public waterways (such as lakes, rivers, and coastal waters).

New Development means any track, lot, or parcel of land, or combination of contiguous tracts, lots, or parcels of land which are in one ownership, or which are owned by two or more parties, and for which improvements of the land from a natural, entirely unimproved condition are proposed or planned as a unit, subdivision, or project. New development includes land that has been used previously for livestock or crops, or has been previously grubbed, stripped, graded, and/or revegetated from a natural, entirely

unimproved condition, provided that impervious surfaces were not previously placed or demolished thereon.

Offsite means outside the property lines of a land development for which a post-construction stormwater permit must be, will be, or has been obtained.

Onsite means within or inside the property lines of a land development for which a post-construction stormwater permit must be, will be, or has been obtained.

Operation and Maintenance Agreement (“O&M Agreement”) means an agreement between the property owner and City, in a form approved by the Director, where the owner agrees to ensure the operation and maintenance of stormwater management facilities continue to function properly and treat runoff after construction is complete. The O&M Agreement shall be signed, notarized, and recorded in the Office of the Judge of Probate in the county where the property is physically located and constitute an enforceable restriction on property usage that runs with the land.

Operation and Maintenance Manual (“O&M Manual”) means a document, in a form approved by the Director, detailing how all private stormwater facilities will be inspected, operated, and maintained to function as designed and prevent water pollution. The O&M Manual will become a maintenance guide for the drainage infrastructure once the development is complete. The O&M Manual shall be signed, notarized, and recorded in the Office of the Judge of Probate in the county where the property is physically located and constitute an enforceable restriction on property usage that runs with the land.

Performance Standard or *Design Standard* means the benchmark against which the design of the land development, the stormwater drainage system, or a specific component of the system is measured. A design must meet the performance standard for it to be deemed compliant with the standard. Performance standards are authorized and established by this Ordinance and defined in detail in the design manual.

Perimeter Control shall have the meaning provided in the Chapter 20, Article VIII of the Madison City Code.

Person means any individual, association, organization, partnership, firm, corporation, or other entity recognized by law and acting as the owner or owner's agent of a premises or as a lessee of a premises. All persons, natural or artificial, includes, but is not limited to, any individual, partnership, association, society, joint stock company, firm, company, corporation, institution, trust, other legal entity, business organization, or other governmental entity and any successor, representative, responsible corporate officer, agent, or agency of the foregoing.

Phasing shall have the meaning provided in the Chapter 20, Article VIII of the Madison City Code.

Pollutant means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: sediment, oils and greases, detergents, fertilizers, pesticides, herbicides, metals, hazardous chemicals, materials that cause changes in pH of stormwater, dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. The term also includes any other effluent characteristics specified in the City's MS4 permit.

Post-Construction Stormwater Practice means, generally, any activity or practice or drainage system that is designed and constructed to manage post-construction stormwater quality or provide flood control, whether alone or in combination with other post-construction stormwater practices. Green infrastructure practices are considered post-construction stormwater practices.

Post-Construction Stormwater Permit (“PCS Permit”) means a permit issued by the City, subsequent to the submission and review of a complete permit application, that authorizes the design, installation, construction, and maintenance of permanent stormwater quality measures on a development or

redevelopment site. A PCS Permit is required for all development and redevelopment unless expressly exempt or excluded under this Ordinance. Permanent stormwater quality measures authorized under a PCS Permit are incorporated as permanent features into the site plan and remain in place following the completion of construction activities for the continuous treatment of stormwater runoff from the stabilized site. Approval of a PCS Permit shall constitute an enforceable restriction on property usage that runs with the land to ensure that future development and redevelopment maintains the site consistent with the approved stormwater management plan. Issuance of a PCS Permit shall not be construed to exempt the owner from obtaining any other approval required by the City Code or by any local, state, or federal authority.

Pre-Concept Conference is a meeting between the owner of a proposed (or possibly proposed) land development, the consultants working on his/her behalf to design the land development, and the City representative to examine the existing (pre-construction condition) hydrology of said land development for the purpose of identifying opportunities or limitations to the use of low impact development practices and green infrastructure practices and to generally evaluate the practices, permits, and regulations that may be necessary to effectively manage stormwater after development of the land.

Pre-Concept Sketch is a written set of documents, narratives, and maps that provides a detailed characterization of the existing hydrology at the location of a proposed land development subject to this Ordinance.

Pre-Construction Condition is the existing condition of the property at the time the application for a post-construction stormwater permit is submitted, prior to any clearing, grubbing, grading, construction, or demolition done in preparation for the proposed new development or redevelopment. For new land developments, the pre-construction condition will be an undeveloped condition. For redevelopments, the pre-construction condition will be a developed condition. In the event that demolition of pavement or structures has already occurred in preparation for the proposed redevelopment when the application for a post-construction stormwater permit is received, the pre-construction condition shall be the previously-developed condition of the property, as obtained from aerial photography, historical mapping, or other reliable source of land cover information.

Premises shall have the meaning provided in the Chapter 20, Article VII of the Madison City Code.

Qualified Credentialed Professional (QCP) shall have the meaning provided in the Chapter 20, Article VIII of the Madison City Code.

Record Drawing is a written, detailed set of documents, narratives, maps, affidavits, and reports that accurately indicate the as-constructed condition of the individual and collective stormwater drainage systems and post-construction stormwater practices on a land development subject to this Article. Approval of a record drawing by the Director is required to terminate a post-construction stormwater permit.

Redevelopment means the expansion, renovation, rebuilding, demolition, and construction, or other further improvement of any previously improved tract, lot, or parcel of land, or combination of contiguous tracts, lots, or parcels of land which are under one ownership, or which are owned by two or more parties, are proposed or planned as a unit, subdivision, or project. "Previously improved" includes, but is not limited to, the prior placement, construction, and/or demolition of buildings, roadways, sidewalks, parking areas, and other areas of concrete, asphalt, gravel, packed gravel, or other materials on the subject tract(s), lot(s), or parcel(s).

Sediment Control shall have the meaning provided in the Chapter 20, Article VIII of the Madison City Code.

Site shall have the meaning provided in the Chapter 20, Article VIII of the Madison City Code.

Stabilization shall have the meaning provided in the Chapter 20, Article VIII of the Madison City Code.

Start of Construction shall have the meaning provided in the Chapter 20, Article VIII of the Madison City Code.

Stormwater means stormwater runoff, snow melt runoff, and surface runoff and drainage, as defined at 40 CFR § 122.26(b)(13).

Stormwater Drainage System means the system of roadside drainage, roadside curbs and gutters, curb inlets, swales, catch basins, manholes, gutters, ditches, pipes, lakes, ponds, sinkholes, channels, creeks, streams, storm drains, post-construction stormwater practices, and similar conveyances and facilities, both natural and manmade, located within the City which are designated or used for collecting, storing, or conveying stormwater, or through which stormwater is collected, treated, stored, or conveyed, whether owned or operated by the City or other person.

Stormwater Management Plan is a written, detailed set of documents, narratives, and maps containing the proposed design, design calculations, construction specifications, affidavits, and reports of the individual and collective stormwater drainage systems and post-construction stormwater practices on a specific, proposed land development subject to this chapter. Approval of a stormwater management plan by the Director is required to obtain a post-construction stormwater permit.

Stormwater Management Program (SWMP) shall have the meaning provided in the Chapter 20, Article VIII of the Madison City Code.

United States Army Corps of Engineers (USACE) shall have the meaning provided in the Chapter 20, Article VIII of the Madison City Code.

Watercourse shall have the meaning provided in the Chapter 20, Article VIII of the Madison City Code.

SECTION 4. Administration.

The Director of Engineering of the City of Madison (the “Director”) or his/her designee, shall act as the authorized enforcement agent and administer, implement, and enforce the provisions of this Article. The Director may delegate any powers or duties under this Ordinance to individuals or entities that act on behalf of or are employed by the City, hold certification as required, and are licensed professionals in the State of Alabama.

SECTION 5. Post-construction Stormwater Permit.

In addition to any other requirements of the City Code or applicable permits, post-construction stormwater quality measures shall be included in any erosion and sediment control plan submitted to the City. These measures are incorporated as a permanent feature into the site plan and are left in place following completion of construction activities to continuously treat stormwater runoff from the stabilized site.

A Post-construction Stormwater Permit (the “PCS Permit”) is required for all development and redevelopment unless exempt or excluded herein. A PCS Permit may only be issued subsequent to a properly submitted and reviewed permit application. The PCS Permit shall ensure that the design, installation, construction, and maintenance of the stormwater management system for all developments and redevelopments is consistent with the requirements of this Ordinance. The owner may only proceed with the specific plans and activities authorized by the PCS Permit. PCS Permit approval or issuance shall not be construed to exempt the owner from obtaining other applicable approvals from local, state, and federal authorities.

The approval of the Stormwater Management Plan shall constitute an enforceable restriction on property usage that runs with the land, such as recorded deed restrictions and protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.

SECTION 6. Permit Application.

It shall be the duty of the owner of the proposed land development, or his/her duly authorized agent, to file with the Director a complete Post-construction Stormwater Permit Application (the "Application"). The application submittals shall include the application document, a complete stormwater management plan, including any applicable forms and certifications, a notarized maintenance agreement providing for the long-term maintenance of all post-construction BMPs included in the project, and an operation and maintenance manual for the operation and maintenance of those BMPs. Both the Operation and Maintenance Agreement ("O&M Agreement") and Operation and Maintenance Manual (the "O&M Manual") shall be recorded with the deed for the property on which the project is located.

All complete applications that conform with this Ordinance and other applicable requirements shall be deemed approved and issued a PCS Permit. Incomplete applications shall not be considered and will be rejected. If an Application is rejected, the Director shall inform the applicant in writing of the reasons for its rejection. The applicant shall have an opportunity to submit a revised application or cure any deficiencies within thirty (30) days without paying a permit application fee.

The Director does not assume to provide complete and comprehensive technical review of the stormwater management plan. Rather, the Director provides a general review of information and documentation that has been submitted to generally ensure that the onsite stormwater drainage system is designed in accordance with this Ordinance, and that stormwater design calculations have been appropriately documented. To this end, the owner of the proposed land development shall be responsible for the intent, adequacy, and compliance of the stormwater designs based on actual field conditions and construction techniques.

The Stormwater Management Plan and any other required supporting forms and certifications prepared and signed by the appropriate professional shall be included as part of the design package submitted to the Planning Department for non-exempt subdivision or site plan developments. The Stormwater Management Plan will be reviewed as part of the Technical Review Process and may be approved with overall site or subdivision approval. Any changes or modifications to the development or site plans that impact the post-construction stormwater management must be approved by the City with an Engineering Change Order. The final approved Stormwater Management Plan must be included in the O&M Manual as an exhibit with the recorded O&M Agreement. The complete PCS Permit Application must be submitted prior to a request for the development's final Engineering Inspection. Any request to transfer a Post-construction Stormwater Permit must be accompanied by a new PCS Permit Application with all supporting documentation.

SECTION 7. Post-construction Stormwater Management Plan Standards.

A. The project site owner must submit to the City a post-construction stormwater management plan that shows placement of appropriate permanent structural or non-structural BMPs and includes the location, dimensions, and supporting analyses of all BMPs, detention/retention facilities, primary conveyance facilities, and outlet conditions.

B. All plans and specifications required to be submitted as a part of the Application should be prepared, to the maximum extent practicable, in accordance with the following general standards:

- (1) Protect and preserve existing natural drainage channels.
- (2) Retain off-site natural drainage patterns.
- (3) Stabilize bare soil and prevent erosion in pervious areas.
- (4) Ensure that waters drained from the land development are free of point and nonpoint sources of pollutants, including eroded soil and sediment, and do not cause flooding or erosion on adjacent or downstream properties to any greater extent that occurs in the

absence of development.

- (5) Ensure that waters are drained from the development in such a manner that will not cause erosion to any greater extent than would occur in the absence of development.
- (6) Provide that all roof and foundation drains shall be discharged to natural drainage, engineered detention ponds, curb face outlets, or to a public or approved private storm drain.

C. BMPs for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, waters of the state, or waters of the United States, shall meet the design criteria set forth in the most recent edition of the handbook and defined in the City's Stormwater Management Plan ("SWMP"), as necessary for compliance with requirements of the MS4 permit. The owner shall provide, at its own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of these structural and non-structural BMPs.

D. *Low-impact development practices.* Owners of development and redevelopment projects are hereby encouraged to use low impact development (LID) and green infrastructure (GI) practices where practicable that will aid stormwater quality and quantity management by reducing impervious surfaces, increasing the use of natural conveyances, maintaining natural vegetation areas, increasing infiltration of surface waters to replenish ground waters, and conserving stormwater for alternative compatible uses.

E. *Regional stormwater control facilities.* The use of regional stormwater control facilities may be allowed when space is available in order to treat multiple parcels of land which are subject to the provisions of this Ordinance. Regional facilities may be allowed as joint ventures between private entities and/or public and private entities.

F. The Stormwater Management Plan shall be prepared and stamped by an engineer, landscape architect, or architect competent in civil and land development design and licensed to practice in the State of Alabama. Additional professional license requirements pertaining to preparation of the Stormwater Management Plan are as follows:

- (1) Portions of the plan that require hydraulic and/or hydrologic calculations (excluding the determination of soil infiltration and permeability rates) and design shall be prepared plans signed, sealed, and dated by a licensed professional engineer qualified in civil engineering, in good standing with the Alabama State Board of Licensure for Professional Engineers and Land Surveyors, and licensed to practice in the State of Alabama.
- (2) Portions of the plan that require soil infiltration tests, soil permeability assessments, and soil media design shall be prepared by a soil scientist, geologist, or geotechnical engineer licensed to practice as professional in the State of Alabama.

G. Professionals responsible for preparation of the Stormwater Management Plan shall indicate conforming licensure by affixing their seal as a licensed professional and providing signature and date of signature in the manner required by the Alabama Law Regulating Practice of Engineering and Land Surveying, Code of Alabama 1975, tit. 34, ch. 11.

H. Performance standards, technical methods, required calculations, and post-construction stormwater practice design specifications that are applied to prepare the Stormwater Management Plan shall be in accordance with the handbook and design standards.

I. The stormwater management plan shall be subject to any additional requirements as set forth in the City's codes and regulations, including but not limited to, the City's subdivision regulations, Zoning Ordinance, flood plain ordinance, engineering and construction specifications, public work

specifications, and all other City regulations.

J. It is the responsibility of the owner to be aware of, and to fully address, any regulations or permits that may apply to the owner's land development, including state and federal regulations for construction activities that will have an impact on Waters of the State, wetlands, sinkholes, landslide areas, and threatened or endangered species. The Director may require proof of land development conformance with, or coverage by, any applicable local, state, or federal regulation or permit in the Stormwater Management Plan.

K. Construction of the land development shall not deviate from the approved stormwater management plan, and permitted plans and specifications shall not be changed, modified, or altered, without the prior written authorization of the Director. The owner shall ensure adherence to this requirement by all persons acting on his or her behalf during construction and until termination of the PCS Permit. All work shall be done in accordance with the permitted plans

L. The Director may require submittal of additional information in any plan required by this Ordinance as necessary to allow an adequate review of the existing or proposed land development conditions, proposed designs, or constructed stormwater drainage system. Omission of any required items for a plan shall render the plan incomplete and withdraw it from review by the Director.

SECTION 8. Referenced Design Standards.

The post-construction BMPs for qualifying sites, which may include a combination of structural BMPs and/or non-structural BMPs, must be designed to ensure, to the maximum extent practicable, that the volume and velocity of pre-construction stormwater runoff is not exceeded.

Landowners and developers must implement and maintain BMPs to ensure, to the maximum extent practicable, that post-construction hydrology mimics pre-construction hydrology of the site. A 1.14 - inch rainfall over a 24-hour period, preceded by a 72-hour antecedent dry period shall be the Basis of Design for post-construction BMPs in accordance with City of Madison MS4 Permit. Peak runoff from the proposed development or redevelopment site shall be limited to predevelopment levels for the two, ten, and 100-year rainfall events.

The standards referenced in this Ordinance have been separately adopted by the City and shall be considered an integral part of this Ordinance. Where provisions of this Ordinance conflict with a referenced standard, the provisions of this Ordinance shall control. The following standards shall serve as design references for purposes of meeting the design standards set forth herein:

- A. The latest version of the "Alabama Handbook for Erosion Control, Sedimentation Control, and Stormwater Management on Construction Sites and Urban Areas", Volumes 1 and 2.
- B. The latest version of the "Low Impact Development Handbook" for the State of Alabama.
- C. The most current version of the City of Madison MS4 permit and any stormwater design manual approved by the City that meets the design requirement of this Ordinance.
- D. The most current version of the City of Madison Subdivision Regulations or any subsequent subdivision regulations approved by the City that meet the design requirement of this Ordinance.
- E. The most current version of the City of Madison Zoning Ordinance or any subsequent zoning regulations approved by the City that meet the design requirement of this Ordinance.
- F. The most current version of the City of Madison Design Standards for Proposed Stormwater Detention/Retention Facilities.

SECTION 9. Stormwater System Requirements.

The design requirements provided in the Section 8 Referenced Design Standards establish the minimum

stormwater management requirements for the design and construction of individual and collective stormwater drainage systems and post-construction stormwater practices. Individual and collective stormwater drainage systems and post-construction stormwater practices on redevelopments not exempted by this Ordinance, whether such systems and practices are located on public or private lands that will result in a net increase in impervious surface area from the previously developed condition, shall be subject to the following performance standards: stormwater quality protection, downstream analysis, and drainage system design. If the downstream analysis indicates an increase in peak discharges in the post-construction condition as compared to the pre-construction condition, the flood protection performance standards shall also apply. Stormwater systems are required to comply with the following performance standards:

- A. Applicable performance standards for a new development shall be evaluated for the entire area of the land development, inclusive of all pervious and impervious surfaces located inside the legal boundaries of the land development. Applicable performance standards for a redevelopment shall be evaluated for the increase in impervious surface area that will result from the redevelopment.
- B. In the evaluation of, and adherence to, flood protection and downstream analysis performance standards, the pre-construction condition shall be the existing condition of the land at the time of application for a PCS Permit for the land development. In the event that demolition of pavement or structures has already occurred at the time of application for a PCS Permit on a property proposed for redevelopment, the pre-construction condition shall be the previously developed condition of the property, as obtained from aerial photography, historical mapping, or other reliable source of impervious cover information. It shall be the responsibility of the owner to provide proof of the pre-construction condition with the stormwater management plan.
- C. Individual and collective stormwater drainage systems and post-construction stormwater practices shall be designed and constructed in strict accordance with the policies, design criteria, calculation and technical specifications, and guidance established in the design manual and in the standard specifications for the construction of public works projects, where applicable, unless otherwise established by this Ordinance or by the Director.
- D. The Federal Emergency Management Agency ("FEMA") or the City's Code may have more stringent requirements for stormwater drainage systems and post-construction stormwater practices for detention/retention that are located within a flood hazard zone. It is the engineer of record's responsibility to determine if a stormwater drainage system will be within a flood hazard zone and to design it in accordance with FEMA requirements, or the City's requirements if more stringent. Such requirements and designs shall be provided in the stormwater management plan.
- E. Land development shall not, under any circumstances, be designed or constructed to allow impervious surfaces to discharge directly to a natural water body, even if one or more of the stormwater performance standards has been waived.
- F. Banks of all streams, channels, ditches, and other earthen stormwater conveyances shall be left in a stabilized condition upon completion of the project. No actively eroding, bare, or unstable banks shall remain. Placement of riprap and other hard armor as the sole bank protection method on blue line streams is only allowed when vegetative bank stabilization alternatives are not technologically feasible.
- G. Post-construction stormwater practices shall not be located in public rights-of-way or on public property without prior approval by the Director.
- H. Green infrastructure BMP practices designed to infiltrate stormwater runoff shall not be located in wellhead protection areas or in other areas where infiltration is prohibited or where

groundwater is protected by a local, state, or federal plan, permit, regulation, or agreement.

- I. Individual and collective stormwater drainage systems and post-construction stormwater practices shall not, at any time, be used for storage of construction or demolition-related chemicals or waste, either temporarily or permanently.

SECTION 10. Stormwater Record Drawings.

As-built certification of the post-construction BMPs is required with the PCS Permit Application. This requirement includes as-built plans, certified by a licensed design professional, showing final design specifications for all post-construction stormwater management practices as well as calculations verifying the performance of the constructed practices.

These plans shall include all data relevant to the completed storm drainage system and stormwater management facilities, including but not limited to the following:

- A. Pipe size and pipe material
- B. Invert elevations;
- C. Top rim elevations;
- D. Elevation of the emergency overflow (spillway) for ponds;
- E. Grades along the emergency flood routing path(s);
- F. Pipe structure lengths;
- G. BMP types, dimensions, and boundaries/easements;
- H. "As-planted" plans for BMPs, as applicable;
- I. Data and calculations showing detention basin storage volume;
- J. Data and calculations showing BMP treatment capacity; and
- K. Certified statement on plans stating the completed storm drainage system and stormwater management facilities substantially comply with construction plans and the post-construction stormwater permit as approved by the City.

Owner(s) of individual and collective stormwater drainage systems and post-construction stormwater practices shall, at the completion of construction, inspect said systems and practices for sediment, trash, debris, or damage. Issues noted shall be corrected prior to submittal of the record drawing. Sediment, trash, and debris discharged during construction to individual and collective stormwater drainage systems shall be entirely removed, such that the system is free of blockage and operating at its fully functional design capacity, as indicated in the approved stormwater management plan.

No Certificate of Occupancy will be issued for the project or development, nor will subdivision infrastructure be accepted into the City's Maintenance Program until the as-built certification is submitted, all post-construction BMPs are determined to be in compliance, and PCS Permit is issued.

SECTION 11. Operation and Maintenance Program.

A self-monitoring and maintenance program must be implemented by the project site owner to ensure the post-construction stormwater management plan is working effectively. This includes the development and execution of a post-construction O&M Agreement as well as a written O&M Manual and inspection checklist.

The O&M Agreement must be customized, signed, notarized, and recorded as prescribed. The O&M Manual for all private infrastructure, including but not limited to pipes, ponds, ditches, and BMPs, shall be submitted for the final plan approval and permit process. The O&M Manual will become a

maintenance guide for the drainage infrastructure once the development is complete. The final O&M Manual shall be recorded as prescribed and a copy of the recorded manual shall be provided to the City in digital format as a PDF.

The O&M Manual shall include, but not be limited to, the following:

- A. Owner name, address, business phone number, home phone number, email address, cellular phone number, pager number;
- B. Recorded O&M Agreement;
- C. Technical Memorandum that includes a written narrative addressing the following: a general description of the existing and proposed drainage systems; an analysis of the LID alternatives considered; the post-construction BMP design, including proposed function; and supporting calculations demonstrating that the best management practices achieve the applicable design performance requirements. The Technical Memorandum shall also include a graphic depiction of the existing and proposed watershed boundaries, incorporating USGS contour data, existing watercourses, wetlands, and drainage infrastructure. The calculation methods as well as the type, sizing, and placement of all stormwater BMPs shall meet the design criteria, standards, and specifications outlined Section 8.
- D. Site drawings (8½" by 11" or 11" by 17"), showing both plan and cross-section views, showing the infrastructure and applicable features, including dimensions, easements, outlet works, forebays, signage, etc., as well as an overall site map of the development showing all structures (the final approved Stormwater Management Plan may satisfy this requirement);
- E. Guidance on owner-required periodic inspections;
- F. Requirement of owner to perform maintenance specified by City, if any;
- G. Guidance on routine maintenance, including mowing, litter removal, woody growth removal, signage, etc.;
- H. Guidance on remedial maintenance such as inlet replacement, outlet works maintenance, etc.;
- I. Guidance on sediment and trash removal, both narrative and graphical, describing when sediment removal should occur in order to insure that BMPs and other infrastructure remain effective as water quality and/or quantity control devices;
- J. A statement that City representatives have the right to enter the property to inspect the infrastructure;
- K. A tabular schedule showing inspection and maintenance requirements;
- L. Identification of the property owner as the party responsible for all maintenance, including cost;
- M. Inspection checklists for the types of BMPs included in the project; and
- N. A site map showing the BMP locations.

SECTION 12. Inspection, Maintenance, Record Keeping, and Reporting.

Subsequent to successful installation of post-construction BMPs, the permanent measures must be inspected and maintained regularly. Upon completion of the stormwater management system installation and submittal of as-built drawings, the Director or designee shall conduct a post-installation inspection to verify that the stormwater infrastructure, including all subsurface drains, was installed in accordance with the approved plans and is functioning properly.

Stormwater BMP facilities shall be maintained in good condition, in accordance with the submitted O&M Manual and schedules, in addition to the designed and approved performance specifications for

the facilities, and shall not be subsequently altered, revised, or replaced, except as approved by the City.

Post-construction BMPs approved after October 1, 2015, shall be subject to annual inspections. The City has the authority to perform long-term post-construction inspections of all public or privately owned stormwater BMPs. The inspection may cover physical conditions, available water quality storage capacity, and the operational condition of key facility elements. Noted deficiencies and recommended corrective action will be included in an inspection report. The City shall be permitted the right to enter the property of the permit holder as deemed necessary to make regular inspections to ensure the validity of the reports filed.

Records demonstrating compliance with an approved plan or record drawing shall be maintained by the person or persons responsible for development of the property for a minimum of three (3) years from the date of issuance of the PCS Permit. Such records shall be made available to the Director upon request. The owner of the post-construction best management practice shall maintain records of all inspections and maintenance activities for a minimum of three (3) years from the date of each inspection and shall make such records available to ADEM or the City upon request.

SECTION 13. Enforcement, Violations, & Penalties.

A. *Minor Violations.* A violation of any provision of this Ordinance or any term or condition of a PCS Permit issued hereunder that does not adversely affect the health, safety, or welfare of persons residing or working in the neighborhood or on the development site, and that is not materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, shall be classified as a minor violation. Upon identification of a minor violation, the City shall issue a written warning to the permit holder and, where applicable, to the person responsible for the violation. The written warning shall include a description of the violation, the date and time the violation was observed, the specific provision of this Ordinance or condition of the PCS Permit that was violated, and a statement that continued or repeated violations may result in further enforcement action under this Section.

B. *Continued Minor Violations.* If a person who has received a written warning under subsection (a) continues to violate or commits a subsequent violation of the same or similar nature, and such violation remains one that does not adversely affect the health, safety, or welfare of persons residing or working in the neighborhood or on the development site and is not materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the City shall issue a written notice of violation to the permit holder and, where applicable, to the person responsible for the violation.

C. *Major Violations; Suspension or Revocation.* If any person violates any provision of this Ordinance or any term or condition of a PCS Permit issued hereunder, and such violation adversely affects the health, safety, or welfare of persons residing or working in the neighborhood or on the development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the City may suspend or revoke the PCS Permit, Land Disturbance Permit, or any other active permit of any type issued by the City related to the site or development in violation of this Ordinance.

D. *Prohibited Activity; Referral to ADEM.* No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any provision of this Ordinance. Any person who violates this Ordinance and fails or refuses to come into compliance following enforcement action under this Section may be referred to ADEM for such further enforcement action as ADEM deems appropriate, including prosecution to the fullest extent of the law.

E. *Penalties.* Any person who violates any provision of this Ordinance or any term or condition of a PCS Permit issued hereunder, or who fails to comply with a written warning or a written notice of violation shall be subject to a civil penalty of not less than fifty dollars (\$50.00) and not more than five hundred dollars (\$500.00) per day for each day the violation continues. Each day a violation

exists or continues shall constitute a separate and distinct offense.

Any person who willfully violates any provision of this Ordinance, or who willfully fails or refuses to comply with any enforcement action taken under this Ordinance, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than five hundred dollars (\$500.00), imprisonment for not more than six (6) months, or both, for each offense. Each day a violation exists or continues following notice shall constitute a separate and distinct offense.

The penalties provided in this subsection are cumulative and shall be in addition to, and not in lieu of, any other remedy or enforcement action available to the City under this Ordinance or under applicable state or federal law.

The Director shall have the authority to determine the amount of any civil penalty imposed taking into consideration the severity of the violation, the duration of the violation, the degree of harm or potential harm to persons or property, the violator's history of prior violations under this Ordinance, and the violator's good faith efforts to achieve compliance.

F. *Abatement.* If a responsible party fails or refuses to meet the design, operation, or maintenance standards required by this Ordinance, the City, after reasonable notice, may correct a violation of the design standards, operation, or maintenance needs by performing all necessary work to place the measures in proper working condition. In the event that the BMPs become a danger to public safety or public health, the City shall notify in writing the responsible party for changes to design, operation, maintenance, and repairs of the BMP. Upon receipt of that notice, the responsible party shall have fourteen (14) calendar days, or such additional time as the City shall determine to be reasonably necessary to complete the action, to make changes to design, operation, maintenance, and repairs of the measures in an approved manner. In the event that corrective action is not undertaken within that time, the City may take necessary corrective action. The cost of any action by the City under this Section shall be billed to the responsible party. If the responsible party refuses to pay the bill, the City is entitled to bring an action against the responsible party to pay, file a lien against the property, or both. Costs shall include interest, collection fees, and reasonable attorney fees.

G. *Appeals.* Any permit holder or person aggrieved by an issued written notice of violation, a suspension or revocation of a permit, or a civil penalty assessed, may appeal such action by filing a written notice of appeal with the City Clerk within fifteen (15) calendar days of the date of the notice of violation, suspension, or revocation. The written notice of appeal shall state the grounds for the appeal with specificity.

Failure to file a written notice of appeal within the time prescribed in herein shall constitute a waiver of the right to appeal, and the enforcement action shall be deemed final. Upon receipt of a timely notice of appeal, the matter shall be referred to the City Council, which shall conduct a hearing within thirty (30) calendar days of the filing of the appeal. The appellant shall be afforded reasonable notice of the hearing and an opportunity to present evidence and testimony in support of the appeal.

The City Council shall review the enforcement action and shall affirm, modify, or reverse the action of the Director. The decision of the City Council shall be rendered in writing and shall constitute the final administrative decision of the City.

The filing of an appeal under this subsection shall not stay the enforcement action unless the City Council, upon application by the appellant and for good cause shown, grants a stay pending resolution of the appeal. In determining whether to grant a stay, the Council shall consider whether the continued activity poses an imminent threat to the health, safety, or welfare of persons or property in the neighborhood or on the development site.

H. *Reinstatement of Suspended or Revoked Permits.* A permit holder whose permit has been suspended may apply for reinstatement by submitting a written request to the Director

demonstrating that all conditions giving rise to the suspension have been corrected and that the site or development is in full compliance with this Ordinance and all applicable permit conditions.

Upon receipt of a request for reinstatement, the Director or his/her designee shall conduct an inspection of the site within ten (10) business days. If the Director determines that the violation has been fully corrected and that the site is in compliance, the permit shall be reinstated. If the Director determines that the violation has not been fully corrected, the request shall be denied in writing, with a description of the remaining deficiencies.

A permit holder whose permit has been revoked may apply for a new permit in accordance with the application procedures set forth in this Ordinance, provided that the applicant demonstrates to the satisfaction of the Director that all conditions giving rise to the revocation have been fully corrected. A revoked permit shall not be reinstated; the applicant must apply for and obtain a new permit. The Director may impose reasonable conditions on any reinstated permit or newly issued permit under this subsection to prevent recurrence of the violation, including but not limited to increased inspection frequency, additional reporting requirements, or modified operational conditions.

Nothing in this subsection shall be construed to entitle any person to reinstatement or issuance of a new permit. The decision to reinstate a suspended permit or to approve a new application following revocation shall remain within the discretion of the Director, subject to the appeal provisions.

SECTION 14. Severability.

If any clause, phrase, sentence, paragraph, or provision of this Ordinance shall be invalidated by a court of competent jurisdiction, it is the intent of the City Council that such invalidation shall not affect the validity of any other clause, phrase, sentence, paragraph, or provision thereof.

SECTION 15. Repealer.

All current provisions of the Code and any prior ordinances or parts of ordinances which are in conflict with this Ordinance are hereby repealed.

BE IT FURTHER ORDAINED that this Ordinance shall be incorporated into the Madison City Code in Chapter 20, Section 460 to 475 and titled “Post-construction Stormwater Management” as a new Article IX.

READ, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Madison, Alabama on this the 10th day of August 2026.

Maura Wroblewski, Council President
City of Madison, Alabama

ATTEST:

Lisa Thomas, City Clerk-Treasurer

APPROVED this _____ day of August, 2026.

Ranae Bartlett, Mayor

City of Madison, Alabama