CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number: _____

Meeting Type: Regular

Meeting Date: Dec 17, 2015

Action Requested By: City Council

Agenda Type: Ordinance

Subject Matter:

Introduction of an Ordinance amending Chapter 12, Article VI, Division 1, Stormwater Management, Code of Ordinances of the City of Huntsville, Alabama, (Kling)

Exact Wording for the Agenda:

Introduction of an Ordinance amending Chapter 12, Article VI, Division 1, Stormwater Management, Code of Ordinances of the City of Huntsville, Alabama, (Kling)

Note: If amendment, Please state title and number of the original

Item to be considered for: Introduction

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what council action will provide, allow and accomplish and; any other information that might be helpful.

Associated Cost: _____

Budgeted Item: Not Applicable

MAYOR RECOMMENDS OR CONCURS: _____

Department Head: Bill Kling

Date: 12/14/15

ORDINANCE NO: 15- _____

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

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

Sec. 12-331. Definitions.

Unless specifically defined in this section or in chapter 21, article III, words or phrases used in this article shall have their common dictionary definitions or meanings they have in common usage.

Addition (to an existing building) means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter loadbearing walls is new construction.

Area of shallow flooding means a designated AO zone on the flood insurance rate map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of special flood hazard means the land in the floodplain subject to a one percent or greater chance of flooding in any given year.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Basement means that portion of a building having its floor subgrade (below ground level) on all sides.

Building means any structure having a roof supported by columns or by walls.

Channel means a natural or artificial watercourse of perceptible extent with definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow is that water which is flowing within the limits of the defined channel.

City engineer means the city engineer or his authorized representative.

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

Detention means the temporary delay of storm runoff prior to discharge into receiving waters.

Developer means any individual, firm, corporation, association, partnership or trust involved in commencing proceedings to effect development of land for himself or others.

Development means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials.

Director of natural resources means the manager of the division of natural resources and environmental management of the city, or his designated representative.

Drainage basin means a part of the surface of the earth that is occupied by and provides surface water runoff into a drainage system, which consists of a surface stream or a body of impounded surface water together with all tributary surface streams and bodies of impounded surface water.

Erosion means the disintegration or wearing away of soil by the action of water.

Excavation means the same as the term "Cut."

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

Flood and *flooding* mean a temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters or the unusual and rapid accumulation or runoff of surface waters from any source.

Flood insurance study means the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the flood boundary floodway map and the water surface elevation of the base flood.

Floodway means the channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floodway fringe means that portion of the floodplain lying outside the floodway.

Floor means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

Grading means any operation or occurrence by which the existing site elevations are changed; or where any ground cover, natural or manmade, is removed; or any watercourse or body of water, either natural or manmade, is relocated on any site, thereby creating an unprotected area. This includes stripping, cutting, filling, stockpiling or any combination, and shall apply to the land in its cut or filled condition.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

Impervious surface means any ground or structural surface that water cannot penetrate or through which water penetrates with great difficulty.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage and in an area other than the basement area, is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the requirements of this article or of the regulations and technical guidelines promulgated pursuant to this article.

Retention means the prevention of storm runoff from direct discharge into receiving waters. Examples include systems which discharge through percolation, exfiltration, filtered bleed-down and evaporation processes.

Sediment means solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

Site means all contiguous land and bodies of water in one ownership, graded or proposed for grading or development as a unit, although not necessarily at one time.

Slope means degree of deviation of a surface from the horizontal, usually expressed in percent or ratio.

Start of construction means the actual start of the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure.

Stripping means any activity that removes or significantly disturbs the vegetative surface cover, including clearing and grubbing operations.

Structure means any combination of materials, including buildings constructed or erected, the use of which requires location on or in the ground or attachment to anything having location on the ground, including but not limited to buildings, towers, carports, signs, billboards and fences, but not including telephone poles and overhead wires, fences less than three feet high, retaining walls or terraces.

Substantial improvement means any combination of repairs, reconstruction, alteration or improvements to a structure, taking place during the life of a structure, in which the cumulative cost equals or exceeds 50 percent of the market value of the structure. The market value of the structure should be the appraised value of the structure prior to the start of the initial repair or improvement or in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a

structure required to comply with existing health, sanitary or safety code specifications which are solely necessary to ensure safe living conditions.

Watercourse means a channel, natural depression, slough, gulch, stream, creek, pond, reservoir or lake in which storm runoff and floodwater flows either regularly or infrequently. This includes major drainageways for carrying urban storm runoff.

Sec. 12-332. Purpose; stormwater management manual; conditions.

(a) It is the purpose of this article to control stormwater drainage facilities and land disturbance activities within the corporate limits of the city so as to promote the public health, safety and general welfare through provisions designed to:

(1) Protect human life and health.

(2) Reduce expenditure of public money for flood control projects.

(3) Reduce the need for rescue and relief efforts associated with flooding.

(4) Provide for the sound use and development of floodprone areas so as to maximize beneficial use without increasing flood hazard potential.

(5) Reduce damage to public facilities and utilities such as water and sewer lines; electric, telephone and gas facilities; and streets and bridges located in floodplains.

(6) Ensure a functional stormwater drainage system that will not result in excessive maintenance costs.

(7) Encourage the improvement of existing flooding problems in conjunction with new development.

(8) Encourage the use of natural and aesthetically pleasing design.

(9) Reduce the impact on public and private property caused by the accumulation of mud, dirt, water, debris and other construction materials.

(b) In addition, it is the purpose of this article to provide a mechanism for appeals initiated under section 21-358.

(c) The stormwater management manual of the city department of public works services ("stormwater management manual") referenced and adopted in section 12-1 of this chapter is hereby incorporated into this article by reference and when reference is made to this article it shall mean and include the stormwater management manual, its regulations, standards, and technical guidelines.

(d) Where, under the authority of this article, the city engineer subjects the issuance of a building permit, grading permit,

or certificate of occupancy to certain conditions, those conditions shall be included as a requirement of this article and a violation of those conditions is a violation of this article.

Sec. 12-333. Penalties and injunctions.

(a) A violation of this article shall be punishable as provided in section 1-7.

(b) In addition to all other remedies provided by law, the city shall have the right to injunctive relief for any violation of this article.

Sec. 12-334. Authority of city engineer.

(a) The city engineer shall have the authority to administer and enforce this article on behalf of the city.

(b) The city engineer shall have the authority to issue grading permits as required under this article. Any grading permit exemption authorized by the city engineer under this article shall not be construed as relieving the party responsible for the identified activity from making on-site drainage improvements that may be required or from compliance with the zoning ordinance of the city or any other applicable laws or regulations.

(c) The city engineer shall have the authority to review all building permit applications prior to their issuance by the inspection division to ensure compliance with the provisions of this article. Building permit applications are exempted from review by the city engineer if the structure which is the subject of such application is to be remodeled within its existing walls and no grading is to occur on the site or is a residential dwelling on a single lot within an approved subdivision with an approved grading plan that establishes the stormwater drainage pattern for the site. No building permit, unless exempted as indicated in this article, shall be issued by the inspection division until an application for such building permit has been approved by the city engineer. The exemptions listed in this article shall not be construed as relieving the party responsible for the identified activity from on-site drainage improvements that may be required in accordance with adopted building and construction codes or from compliance with the zoning ordinance of the city or any other applicable laws or regulations.

(d) The city engineer is authorized to enter upon the premises of any land within the city for which a grading or building permit application has been filed to inspect the site before, during and upon conclusion of any land disturbance activity to determine compliance with this article.

(e) In cases where the city engineer is authorized to review building permits prior to issuance or has issued a grading permit, a certificate of occupancy shall not be issued until the city engineer has determined compliance with this article.

(f) The city engineer, or an employee of his department designated by him, is authorized to issue a citation to any person found by him to be in violation of this article, including the stormwater management manual. The citation shall order the person to appear in the municipal court at a date and time certain to answer the charges against him.

(g) The city engineer is authorized to issue a stop work order with regard to any grading or other land disturbance activity that is being done contrary to the provisions of this article or in a dangerous or unsafe manner. Such notice shall be in writing, shall be delivered to the owner of the property, his agent, or the person doing the work, and shall state the conditions under which work may be resumed.

Sec. 12-335. Stormwater management manual standards.

In the enforcement and administration of this article, the city engineer shall apply the standards set forth in section 2.1.1 of the stormwater management manual.

Sec. 12-336. Grading without a grading plan.

(a) Development of a site shall conform to the stormwater discharge pattern established in an existing grading plan that includes the site, unless a deviation from such plan is required or allowed by the city engineer in accordance with this article, including the stormwater management manual. Deviations from the established drainage pattern shall require the approval of the city engineer before the issuance of a building permit in accordance with this article, including the stormwater management manual. It shall be a violation of this article for the holder of a building permit or grading permit to fail to follow the established drainage pattern for the site or the approved deviations. The city engineer may withhold approval of the issuance of a certificate of occupancy until either the established drainage pattern or the approved deviations are met.

(b) For construction that includes grading and where there is no grading plan in place that establishes the stormwater discharge pattern for the site, the city engineer may condition the building permit to include requirements designed to carry stormwater discharge to public drainage easements or facilities, or to private drainage easements or facilities that are designed and authorized to accommodate said drainage. The building permit holder shall grade the site to conform to such required conditions. The city engineer may withhold approval of the issuance of a certificate of occupancy until such required conditions have been met.

Sec. 12-337. Surface stabilization measures on sites not regulated under a grading permit.

(a) When used in this section, the following words, terms, and phrases shall have the following meanings:

Graded site means: (1) a site with grading that is under an active building permit, (2) a site being graded in preparation for

construction prior to the issuance of a building permit, or (3) a site with grading where the building permit has expired prior to completion of construction. The term includes public and private easements and rights-of-way located on or immediately adjacent to the site.

Inclement weather period means a prolonged period of heavy rain, high winds, frost or similar weather conditions that render installing permanent stabilization measures unattainable due to such conditions.

Permanent stabilization measures mean maintaining a graded site with a full stand of grass, allowed impervious surface, or other approved permanent stabilization measures.

Person in control means, where there is no active building permit, the owner or person in possession or control of the graded site, and, where there is an active building permit, the holder of a building permit issued for construction on the graded site.

Surface stabilization measures mean maintaining a graded site with either permanent stabilization measures in place or temporary stabilization measures in place, or both.

Temporary stabilization measures mean maintaining a graded site with straw, seed, silt fencing, or other approved temporary stabilization measures.

(b) *Coverage of section.* This section is intended to govern graded sites that are not being regulated under an active grading permit. Nothing in this article shall be construed to relieve any person from complying with other applicable federal, state, and local laws, including, but not limited to, landscaping requirements under the city's zoning ordinance, foundation drainage requirements under the city's building code, and federal and state environmental regulations, including NPDES permitting requirements.

(c) *Surface stabilization for graded sites.* It shall be a violation of this article for the person in control of a graded site to fail to maintain, in good condition, order, and repair, surface stabilization measures in place on the site that prevent mud, dirt, water, debris and other construction materials from being washed, blown or otherwise deposited on adjacent public or private property, including, without limitation, public rights-of-way.

(d) *Surface stabilization required prior to issuance of certificate of occupancy.*

(1) Subject to subsection (2) below, as a condition to the issuance of a certificate of occupancy after completion of construction on a graded site, the building permit holder shall have permanent stabilization measures in place on the graded site as may be approved by the city engineer.

(2) During an inclement weather period the building permit holder may apply with the city engineer for a waiver from the foregoing permanent stabilization requirement. The

city engineer, in her sole discretion, may approve the waiver, subject to each of the following conditions:

a. Permanent stabilization measures shall be in place on that portion of the graded site that has public easements and rights-of-way.

b. Temporary stabilization measures shall be in place on the remainder of the graded site.

c. Within three months from the date of the issuance of the certificate of occupancy the applicant for the waiver shall be responsible for having full stabilization measures in place on the site and, failing therein, said applicant shall be in violation of this article.

Section 2. 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 3. This Ordinance shall become effective upon its adoption and approval.

ADOPTED this the _____ day of _____, 2016.

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

APPROVED this the _____ day of _____, 2016.

_____
Mayor of the City of
Huntsville, Alabama