REGULAR MEETING AGENDA
MOUNTAIN BROOK CITY COUNCIL

NOVEMBER 9, 2020, 7:00 P.M.

As authorized by the Governor of the State of Alabama on March 18, 2020, elected officials may deliberate by means of telephone conference, video conference or other similar means of communication. Members of the public are also invited to listen, observe and participate in public meetings by such means as well.

Due to COVID-19, public gatherings of 10 or more are generally not permitted without adequate social distancing. Should anyone wish to listen, observe or participate in the City Council meeting above, please join by way of the Zoom app (re: Meeting ID 801-559-1126, password 11092020). Should the meeting be interrupted for any reason, meeting attendees, participants and presenters should contact the City at city@mtnbrook.org for instructions.

1. Small Business Saturday proclamation.

2. Approval of the minutes of the October 26, 2020, regular meeting of the City Council.

3. Approval of the minutes of the November 2, 2020, organizational meeting of the City Council.

4. Consideration: Ordinance extending for another 90-days the temporary modification of the temporary restaurant sidewalk dining regulations first implemented upon the adoption of Ordinance No. 2067 on May 11, 2020 and 2073 on August 10, 2020.

5. Consideration: Ordinance extending for another 90-days the time restrictions for the on-street public parking located in Mountain Brook, Crestline and English Village first implemented upon the adoption of Ordinance No. 2068 on May 13, 2020 and 2074 on August 10, 2020.

6. Consideration: Resolution authoring the placement of two stop signs on Briar Oak Drive at its intersection with River Oaks Road.

7. Consideration: Ordinance amending the City’s storm water detention regulations.

8. Consideration: Ordinance amending Chapter 14 of the City Code with respect to storm water-related re-inspection fees.

9. Announcement: The next regular meeting of the City Council is November 23, 2020, at 7:00 p.m. (means and location to be announced).

10. Adjourn.
PROCLAMATION

Whereas, the government of the City of Mountain Brook, Alabama, celebrates its local small businesses and the contributions they make to its local economy and community; according to the United States Small Business Administration, there are currently 30.7 million small businesses in the United States, they represent 99.7 percent of all businesses with paid employees in the United States, are responsible for 64.9 percent of net new jobs created from 2000 to 2018; and

Whereas, small businesses employ 47.3 percent of the employees in the private sector in the United States; and

Whereas, 94% of consumers in the United States value the contributions small businesses make in their community; and

Whereas, 96% of consumers who plan to shop on Small Business Saturday said the day inspires them to go to small, independently-owned retailers or restaurants that they have not been to before, or would not have otherwise tried; and

Whereas, 92% of companies planning promotions on Small Business Saturday said the day helps their business stand out during the busy holiday shopping season; and

Whereas, the City of Mountain Brook, Alabama supports its local businesses that create jobs, boost the local economy and preserve communities; and

Whereas, advocacy groups, public and private organizations across the country have endorsed the Saturday after Thanksgiving as Small Business Saturday.

Now, Therefore, I, Stewart H. Welch III, Mayor of the City of Mountain Brook, Alabama do hereby proclaim, November 28, 2020, as:

“SMALL BUSINESS SATURDAY”

and urge the residents of our community, and communities across the country, to support small businesses and merchants on Small Business Saturday and throughout the year.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Mountain Brook to be affixed the 9th day of November of the year of our Lord 2020 and of the Independence of the United States of America, the 244th.

Stewart H. Welch III, Mayor

2020-190
MOUNTAIN BROOK CITY COUNCIL
PRE-MEETING DISCUSSION
OCTOBER 26, 2020

[Pursuant to a proclamation issued by Governor Kay Ivey on March 18, 2020, elected officials are allowed to
meet remotely by means of Internet video or telephone conference and the public was invited to listen to,
observe, or participate in the meeting by such means. The elected officials met by way of Internet video
conference and allowed the public to listen, observe and participate by the same means.]

The City Council of the City of Mountain Brook, Alabama met informally by way of Internet video
conference at 5:30 p.m. on the 26th day of October, 2020. The Council President called the pre-meeting to
order and the roll was called with the following results:

Present: Virginia C. Smith, Council President
William S. Pritchard III, Council President Pro Tempore
Lloyd C. Shelton
Alice B. Womack
Stewart Welch III, Mayor

Absent: Philip E. Black

Also present were City Attorney Whit Colvin, City Manager Sam Gaston, and City Clerk Steven
Boone.

1. AGENDA

1. Review of Oakdale/Kingshill Road intersection—Richard Caudle of Skipper Consultants
(Appendix 1.)
   • Tamara Creedon requests a crosswalk on Oakdale Road at its intersection with Kingshill
     Road and a multi-way stop
   • There is a sidewalk along the south-side of Oakdale Road that ties into the sidewalk on
     Oakdale Drive
   • There is a pedestrian crossing one block to the east of the this location at Woodvale Road
   • The police department-conducted speed survey shows what is desired—the 85th percentile
     speed is 31 miles per hour with virtually no one exceeding the speed limit by more than 10
     miles per hour
   • Traffic volume 2,500-2,900 vehicles/day is higher than a typical neighborhood street (2,000
     or less vehicles/day) attributable to the high school and commuters
   • There was one right-angle crash observed with no injuries
   • A 30-second drone video showing typical traffic volume and maneuvers over a 23-minute
     period (7:30-7:53 a.m.) was presented
   • No pedestrians were observed during the period recorded
   • The multi-way stop is not recommended based on the observations
   • Regarding the crosswalk, there are no ADA facilities along the north-side of the road. The
     ADA facilities along the south-side of the road are not oriented properly to accommodate a
     crosswalk at this location.
   • Typically, if a city improvement is initiated the City is required to make it accessible for all.
     Therefore, it would take considerable work to make this crosswalk accessible for all.
   • Furthermore, once you get an individual across the intersection, where to they go from there.
     Additional sidewalks may be necessary.
• Oakdale Drive motorists may have difficulty seeing and reacting to pedestrians in the crosswalk
• There could also be a visibility limitation looking to the left

While Ms. Creeden's request seemed reasonable, the elected officials expressed their desire to follow the traffic engineer's recommendation.

2. Jefferson County Sewer projects along Memory Lane/Dan Watkins Road and on Culver Road/Petticoat Lane in Mountain Brook Village—Jefferson County Environmental Services Dept. (Appendix 2.)
• The project is expected to be bid in the winter of 2021, construction to commence in spring 2022 and last for more than one year.
• The project is being coordinated with both the roundabout and Lane Parke projects
• The City Manager shall schedule a follow-up meeting with himself, Ronnie Vaughn, the engineers, John Evans, Richard Caudle, Council President Smith and Council President Pro Tempore Pritchard.

3. Storm Water Detention Ordinance amendments—Glen Merchant (Appendix 3.)
• The proposed changes strengthen the existing regulations
• A lot with a slope of 12 percent or more requires storm water detention measures in conjunction with development
• Low-impact development (LID) and green infrastructure practices have been incorporated
• The goal is not only to control the amount of water entering the streams but also the quality of [runoff] water
• Phased development is encouraged for both redevelopment or new development
• The vegetative buffer should be outside of the silt fencing to filter the runoff
• The land disturbance bond is $3,000/acre currently. The proposed ordinance increases the bond to $10,000/acre.
• The fee schedule is proposed to be increased in order to provide a greater incentive to comply with the regulations
• The investment by developers and property owners to better regulate run-off will ultimately save the City money with respect to its drainage infrastructure
• Council President Pro Tempore Pritchard suggested the City solicit input from builders/architects and other that will be directly impacted by this ordinance

Mr. Thomas with Walther Schoel Engineering:
• With respect to the increased project costs, it depends on how much of the storm water requirements the developer takes on with respect to the LID and other protective measures
• An undeveloped site will have to implement measures to ensure that post-development run-off is the same as pre-development

• The proposed ordinance requires any clearing whether for a development or not to consider pre-improvement and post-improvement run-off
• Any changes in the lot condition will require plans to manage and mitigate run-off
• Pritchard inquired how many properties may be impacted by these proposed regulations
• Clearing underbrush may not trigger these proposed regulations unless some of the underlying lot conditions outlined in the ordinance are present (e.g., 12 percent or more slope)
• Pritchard expressed concern that the regulations are too far-reaching (suggested that these regulations be applicable only to permitted development projects)
• This matter will be reconsidered at a later date to allow for further study of the concerns raised
4. Proposed amendment to Chapter 14 (Fees) related to failure to comply with the Storm Water Ordinance (second and third inspections fees)—Glen Merchant (Appendix 4). Discussion tabled until the aforementioned Storm Water Detention Ordinance matter is reconsidered.

5. Comments from residents about making Briar Oak Drive and River Oaks Road a 3-way stop—Richard Caudle of Skipper Consultants (Appendix 5.)
   - Only one call in favor of the requested stop signs has been received
   
   Chris Powanda:
   - Stated that other residents in favor of the stop signs were on earlier but had to leave
   - The residents want both the stop signs and the reduced speed limit
   - While the traffic counts and speeding numbers is low, taken into perspective, they are high for this residential street
   
   Mr. Russom:
   - River Oaks is less than 1,000 feet long and not intended to be a cut-through street
   - Seemingly, people moving to area have school-age children
   - Navigation systems sometimes reroute traffic through this area to avoid Overton Road
   - The 85th percentile using a 30 mile per hour speed limit is too much for such a short street

   The elected officials expressed their support to install stop signs at this.

   Powanda urged the Council to also consider reducing the speed limit to at least 25-miles per hour and believes the affected residents would not object to a 20-mile per hour speed limit. President Smith stated that only the stop signs will be considered on November 9.

   - The matter shall be formally considered at the November 9, 2020, meeting of the City Council and the City Manager shall mail notices to area residents.

6. Mill Springs Road/Cold Harbor Drive 3-way stop study—Richard Caudle of Skipper Consultants (Appendix 6.) Based on the traffic study, a multi-way stop is not warranted. The members of the City Council each expressed their desire to follow the recommendation of the traffic engineer.

7. Rebuild Alabama Act grant application for the Caldwell Mill Road bridge—Blair Perry of Gresham Smith (Resolution No. 2020-183 was added to the formal meeting agenda.)

8. Birmingham Water Works costs estimates to relocate water line around new Caldwell Mill Road bridge—Blair Perry of Gresham Smith (Appendix 7.)
   - The BWWB seems receptive to covering the cost if allowed to attach the water main to the bridge. Otherwise, BWWB requests the City to pay any additional costs incurred to bury the pipe under the stream.
   - The City Attorney was asked to review the franchise agreement to determine whether the City is compelled to participate in the cost of the relocation of the water main.
   - Waiting two weeks while the City Attorney researches the franchise agreement will not adversely impact the aforementioned Rebuild Alabama Act grant application.

9. Reappointment of Rachel Barton to the Jefferson County Intellectual and Development Disabilities Authority, Inc. (Resolution No. 2020-181 was added to the formal meeting agenda.)
10. Request for a conditional use to expand previous Pet Vet services by moving the grooming function to 208 Country Club Park: allowing growth of other veterinary services in the primary location at 253 Country Club Park—Mike Mahaffey, applicant.
   - If approved, all grooming services will be performed in the space next to Urban Cookhouse
   - Pets will be dropped off and picked-up at the main office so parking will not be impacted in the vicinity of Otey’s and Urban Cookhouse
   - There is a backdoor exit along the ally that may be used if there are a lot of people seated in the outside dining area of Otey’s and Urban Cookhouse
   - Resolution No. 2020-182 was added to the formal meeting agenda

11. Quotes to add iWave air purifiers at Stations #1 and #3—Chief Mullins (Resolution No. 2020-183 was added to the formal meeting agenda.)

12. Request to de-annex property at 314 Malaga Avenue, 35209 (Appendix 8).
   - President Smith: Because there are three residential properties in the area (313 and 314 Malaga Avenue and 316 Greenwood), Smith stated that she is not inclined to de-annex this property
   - Council President Pro Tempore Pritchard stated that it is a hard sell to ever de-annex a property and sees no reason to do so at this time
   - Both Council members Shelton and Womack agreed
   - Boone was asked to let Mr. Ydel know of the Council’s sentiment regarding the requested de-annexation

13. Review of the other matters to be considered at the formal (7 p.m.) meeting.

2. ADJOURNMENT

   There being no further business or matters for discussion, Council President Smith adjourned the meeting at approximately 7:12 p.m.

3. CERTIFICATION

   I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, certify the above is a true and correct synopsis of the discussion from the work session of the City Council of the City of Mountain Brook, Alabama held by way of Internet videoconference on October 26, 2020, and that the meeting was duly called and held in all respects in accordance with the laws of the State of Alabama and bylaws of the City and that no formal action or votes were conducted at said work session.

   City Clerk Approved by
   City Council November 9, 2020
MINUTES OF THE REGULAR OF THE
CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK
OCTOBER 26, 2020

[Pursuant to a proclamation issued by Governor Kay Ivey on March 18, 2020, elected officials are allowed to
meet remotely by means of Internet or telephone conference and the public was invited to listen to, observe, or
participate in the meeting by such means. The elected officials met by way of Internet video conference and
allowed the public to listen, observe and participate by the same means.]

The City Council of the City of Mountain Brook, Alabama met by way of Internet video conference at
7:12 p.m. on the 26th day of October, 2020. The Council President called the meeting to order and the roll
was called with the following results:

Present: Virginia C. Smith, Council President
          William S. Pritchard III, Council President Pro Tempore
          Lloyd C. Shelton
          Alice B. Womack
          Stewart Welch III, Mayor

Absent: Philip E. Black

Also present were City Attorney Whit Colvin, City Manager Sam Gaston, and City Clerk Steven
Boone.

The Council President stated that a quorum was present and that the meeting was open for the
transaction of business

1. PRESENTATION

Mayor Welch read aloud Resolution No. 2020-180 (Exhibit 1) expressing the City’s gratitude to
Randy Haddock for his service to the community serving as Field Director for the Cahaba River Society for
29-years.

2. SEMI-ANNUAL MOUNTAIN BROOK CHAMBER OF COMMERCE REPORT TO THE
   CITY COUNCIL

Tonya Jones, Chamber President, presented the Chamber’s semi-annual report (Appendix 1).

3. CONSENT AGENDA

Council President Smith announced that the following matters will be considered at one time on the
consent agenda provided no one in attendance objects:

Approval of the minutes of the October 12, 2020, regular meeting of the City Council

2020-180 Recognition of Randy Haddock with the Cahaba River Society for his assistance to the City with respect to the City’s storm water ordinance  Exhibit 1

2020-181 Reappoint Rachel Barton to the Jefferson County Intellectual and Developmental Disabilities Authority, Inc., to serve without compensation through December 8, 2026  Exhibit 2, Appendix 2

2020-182 Approve the amended conditional use application submitted by Mike Mahaffey for the outpatient veterinary clinic at 253 Country Club Park, and for an expansion of grooming services (suite 208), Exhibit 3, Appendix 3

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in accordance with the operational characteristics outlined in the
letters submitted by the applicant, and subject to the following
specific conditions:
1. No outdoor runs;
2. Business to be conducted wholly within the building;
3. No overnight boarding;
4. Appropriate measures be employed to minimize noise,
   odors, waste or other negative impacts incidental to
   operation of the business

5. **2020-183** Approve and authorize the unbudgeted purchase and installation of
   [iWave] air purification systems for Fire Stations 1 and 3
   Exhibit 4, Appendix 4

6. **2020-184** Authorize 1) the City’s application for a 2021 Rebuild Alabama
   grant for the bridge replacement on Caldwell Mill Road over Little
   Shades Creek and 2) the City’s commitment to pay the required
   matching funds should the grant be awarded
   Exhibit 5, Appendix 5

Thereupon, the foregoing minutes and resolutions were introduced by Council President Smith and a
motion for their immediate adoption made by Council President Pro Tempore Pritchard. The minutes and
resolutions were then considered by the City Council. Council member Shelton seconded the motion to adopt
the foregoing minutes and resolutions. Then, upon the question being put and the roll called, the vote was
recorded as follows:

Ayes: Virginia C. Smith, Council President
William S. Pritchard III, Council President Pro Tempore
Lloyd C. Shelton
Alice B. Womack

Nays: None
Abstained: None

Council President Smith thereupon declared that said minutes and resolutions (Nos. 2020-180 through
2020-184) were adopted by a vote of 4—0 that and as evidence thereof she signed the same.

4. **CONSIDERATION OF AN ORDINANCE (NO. 2082) AUTHORIZING THE PLACEMENT
   OF (2) STOPS SIGNS ON BROOKWOOD ROAD AT ITS INTERSECTION WITH SOUTH
   BROOKWOOD ROAD (MAKING THE INTERSECTION A 3-WAY STOP) (EXHIBIT 6,
   APPENDIX 6)**

The ordinance was introduced in writing by Council President Smith who then invited comments.
There being no comments or questions, President Smith called for a motion. Council President Pro Tempore
Pritchard made a motion that all rules and regulations which, unless suspended, would prevent the immediate
consideration and adoption of said ordinance be suspended, and that unanimous consent to the immediate
consideration of said ordinance is given and that the reading of the ordinance at length be waived. The motion
was seconded by Council member Shelton. Thereupon, Council President Smith called for vote with the
following results:

Ayes: Virginia C. Smith
William S. Pritchard, III
Lloyd C. Shelton
Alice B. Womack

Nays: None

The Council President Smith declared the motion passed by a vote of 4—0.
After said ordinance had been considered in full by the Council, Council President Pro Tempore
Pritchard moved for the adoption of said ordinance. The motion was seconded by Council member Womack. Thereupon, Council President Smith called for vote with the following results:

**Ayes:**  Virginia C. Smith
William S. Pritchard, III
Lloyd C. Shelton
Alice B. Womack

**Nays:**  None

The Council President Smith declared that the said ordinance (No. 2082) is hereby adopted by a vote of 4—0 and, as evidence thereof, she signed the same.

5. **CONSIDERATION OF AN ORDINANCE (NO. 2083) AUTHORIZING THE PLACEMENT OF A TWO STOP SIGNS ON RIVER BEND ROAD AT ITS INTERSECTION WITH BRIAR OAK DRIVE (MAKING THE INTERSECTION A 4-WAY STOP) (EXHIBIT 7, APPENDIX 7)**

The ordinance was introduced in writing by Council President Smith who then invited comments. There being no comments or questions, President Smith called for a motion. Council member Shelton made a motion that all rules and regulations which, unless suspended, would prevent the immediate consideration and adoption of said ordinance be suspended, and that unanimous consent to the immediate consideration of said ordinance is given and that the reading of the ordinance at length be waived. The motion was seconded by Council President Pro Tempore Pritchard. Thereupon, Council President Smith called for vote with the following results:

**Ayes:**  Virginia C. Smith
William S. Pritchard, III
Lloyd C. Shelton
Alice B. Womack

**Nays:**  None

The Council President Smith declared the motion passed by a vote of 4—0.

After said ordinance had been considered in full by the Council, Council member Womack moved for the adoption of said ordinance. The motion was seconded by Council President Pro Tempore Pritchard. Thereupon, Council President Smith called for vote with the following results:

**Ayes:**  Virginia C. Smith
William S. Pritchard, III
Lloyd C. Shelton
Alice B. Womack

**Nays:**  None

The Council President Smith declared that the said ordinance (No. 2083) is hereby adopted by a vote of 4—0 and, as evidence thereof, she signed the same.

6. **ANNOUNCEMENT**

The next [organizational] meeting of the City Council is November 2, 2020, at 8:30 a.m. in the Council Chambers of City Hall, 56 Church Street, Mountain Brook, AL 35213 (other means to be announced).
7. EXECUTIVE SESSION AND ADJOURNMENT

There being no further business or matters for discussion, Council President Pro Tempore Pritchard made a motion that the City Council convene in executive session to discuss real estate matters and that the City Council shall not reconvene upon conclusion of the executive session. The City Attorney then certified that the subject matter of the executive session is permissible under Alabama law. The motion was seconded by Council member Shelton. Then, upon the question being put and the roll called, the vote was recorded as follows:

Ayes: Virginia C. Smith, Council President
      William S. Pritchard III, Council President Pro Tempore
      Lloyd C. Shelton
      Alice B. Womack

Nays: None

Abstained: None

Council President Smith announced that the motion carried by a vote of 4—0 then adjourned the meeting at approximately 7:58 p.m.

8. CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, certify the above is a true and correct transcript of the regular meeting of the City Council of the City of Mountain Brook, Alabama by Internet videoconference on October 26, 2020, and that the meeting was duly called and held in all respects in accordance with the laws of the State of Alabama and bylaws of the City and that a quorum was present.

______________________________
City Clerk Approved by
City Council November 9, 2020

EXHIBIT 1

RESOLUTION

WHEREAS, Randy C. Haddock, PhD, served with distinction as the Field Director of the Cahaba River Society since 1991 and upon his retirement he will have been a 29-year employee not including his previous volunteer time; and

WHEREAS, over the course of his love of educating our children, industry and adults, Randy Haddock’s invaluable insight greatly contributed to the detailed review process of many communities for zoning and redevelopment projects, including: improvement of ADEM’s water quality standards for all rivers statewide, spearheaded a project that reduced the algae from wastewater treatment by 95%, ; and

WHEREAS, Randy Haddock unfailingly exhibited a love for the natural resources of the State of Alabama and his community and always took its best interests to heart, carefully weighing the benefits of each proposal against potential effects on surrounding properties, neighborhoods, and the community as a whole; and

WHEREAS, Randy Haddock consistently went the extra mile to personally visit proposed development sites in order to investigate potential issues at the ground level, has an excellent reputation as being the premiere river ecologist and biologist and has helped bring national recognition and support to the amazing biodiversity value and beauty of the Cahaba River; and
MINUTES OF THE ORGANIZATIONAL MEETING OF THE
CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK, ALABAMA
NOVEMBER 2, 2020

[Pursuant to a proclamation issued by Governor Kay Ivey on March 18, 2020, elected officials are allowed to meet remotely by means of Internet video or telephone conference and the public was invited to listen to, observe, or participate in the meeting by such means. The elected officials met in-person and by way of Internet videoconference and allowed the public to listen, observe and participate by the same means.]

The City Council of the City of Mountain Brook, Alabama, met in special public session to conduct its organizational meeting as required by the laws of the State of Alabama in the City Hall Council Chambers (Room A108) of the City of Mountain Brook on Monday, the 2nd day of November 2020, at 8:00 a.m.

The meeting was called to order by the Council member-elect William S. Pritchard III and the roll was called with the following results:

Present: Gerald A. Garner
         William S. ("Billy") Pritchard III
         Lloyd C. Shelton
         Virginia C. Smith
         Alice B. Womack (Internet videoconference)
         Stewart H. Welch III

Absent: None

Also present were City Attorney Whit Colvin, City Manager Sam Gaston, and City Clerk Steven Boone.

1. INTRODUCTION OF K. C. HAIRSTON

City Manager Sam Gaston introduced Mountain Brook Municipal Court Judge K. C. Hairston who will administer the oaths of office.

Judge Hairston then administered the oaths of office to Council members Garner and Smith and Mayor Welch (Appendix 1) who then assumed their respective roles on the City Council.

2. ELECTION OF OFFICERS

Council member Pritchard made a motion that Council member Smith be appointed City Council President. The motion was seconded by Council member Shelton. Thereupon, Council member Smith called for vote with the following results:

Ayes: Virginia C. Smith
      Gerald A. Garner
      William S. ("Billy") Pritchard III
      Lloyd C. Shelton
      Alice B. Womack

Nays: None

Council President Smith declared that the motion is hereby adopted by a vote of 5—0.

Council President Smith then made a motion that Council member Pritchard be appointed City Council President Pro Tempore. The motion was seconded by Council member Garner. Thereupon, Council President Smith called for vote with the following results:
Ayes: Virginia C. Smith  
William S. ("Billy") Pritchard III  
Gerald A. Garner  
Lloyd C. Shelton  
Alice B. Womack  

Nays: None  

Council President Smith declared that the motion is hereby adopted by a vote of 5—0.

3. CONSENT AGENDA

Council President Smith announced that the following matters will be considered at one time on the consent agenda provided no one in attendance objects:

2020-185 Adopt the rules of order and procedure  
Exhibit 1

2020-186 Appoint the City Attorney(s) (Bishop, Colvin, Johnson & Kent and Starnes, Davis & Florie, LLP)  
Exhibit 2

2020-187 Motion appointing Council representatives to the:  
Exhibit 3

- Planning Commission (voting member)-Philip E. Black (Council representative)
- Board of Zoning Adjustment (liaison)-Gerald A. Garner
- Parks and Recreation Board (liaison)-Virginia C. Smith
- O’Neal Library Board (liaison)-Lloyd C. Shelton
- Board of Education (liaison)-William S. Pritchard III
- Finance Committee (voting member)-Lloyd C. Shelton
- Villages Design Review Committee (liaison)-Alice B. Womack
- Editorial Board-Gerald A. Garner
- Board of Landscape Design (liaison)-Virginia C. Smith
- Chamber of Commerce (liaison)-Alice B. Womack
- Parking Committee-Gerald A. Garner
- Municipal judges-Stewart Welch III
- Public safety departments-Stewart Welch III
- All In Committee (voting member)-William S. Pritchard III

2020-188 Appoint the members of the Mountain Brook City Council as the Board of Commissioners of the Mountain Brook Emergency Communication District and nomination of the Chairman (Virginia C. Smith) of the Emergency Communication District Board  
Exhibit 4

2020-189 Reaffirm the prior removal (Resolution No. 2015-142) of all elected officials of the City of Mountain Brook from the covered employee classification with respect to the City’s Local Government Health Insurance Plan (LGHIP)  
Exhibit 5

Thereupon, the foregoing motion and resolutions were introduced by Council President Smith and a motion for their immediate adoption was made by Council President Pro Tempore Pritchard. The motion and resolutions were then considered by the City Council. Council member Shelton seconded the motion to adopt the foregoing motion and resolutions. Then, upon the question being put and the roll called, the vote was recorded as follows:

Ayes: Virginia C. Smith  
William S. ("Billy") Pritchard III  
Gerald A. Garner  
Lloyd C. Shelton  
Alice B. Womack
Nays: None

Council President Smith thereupon declared that said motion (No. 2020-187) and resolutions (Nos. 2018-185, 186, 188 and 189) are adopted by a vote of 5—0 and as evidence thereof she signed the same.

4. CONSIDERATION: ORDINANCE (NO. 2084) APPOINTING THE CITY MANAGER (EXHIBIT 6)

Council President Smith introduced the ordinance in writing. It was then moved by Council member Shelton that all rules and regulations which, unless suspended, would prevent the immediate consideration and adoption of said ordinance be suspended and that unanimous consent to the immediate consideration of said ordinance be given and that the reading of the ordinance at length be waived. The motion was seconded by Council President Pro Tempore Pritchard and was unanimously carried, as follows:

Ayes: Virginia C. Smith
William S. ("Billy") Pritchard III
Gerald A. Garner
Lloyd C. Shelton
Alice B. Womack

Nays: None

Council President Smith declared the motion carried by a vote of 5—0.

After said ordinance had been considered in full by the Council President Pro Tempore Pritchard then moved for the adoption of said ordinance. The motion was seconded by Council President Smith. Thereupon, Council President Smith called for vote with the following results:

Ayes: Virginia C. Smith
William S. ("Billy") Pritchard III
Gerald A. Garner
Lloyd C. Shelton
Alice B. Womack

Nays: None

Council President Smith declared that the ordinance (No. 2084) is hereby adopted by a vote of 5—0 and, as evidence thereof, she signed the same.

5. CONSIDERATION: ORDINANCE (NO. 2085) APPOINTING THE CITY CLERK (EXHIBIT 7)

Council President Smith introduced the ordinance in writing. It was then moved by Council President Pro Tempore Pritchard that all rules and regulations which, unless suspended, would prevent the immediate consideration and adoption of said ordinance be suspended and that unanimous consent to the immediate consideration of said ordinance be given and that the reading of the ordinance at length be waived. The motion was seconded by Council President Smith and was unanimously carried, as follows:

Ayes: Virginia C. Smith
William S. ("Billy") Pritchard III
Gerald A. Garner
Lloyd C. Shelton
Alice B. Womack

Nays: None

Council President Smith declared the motion carried by a vote of 5—0.
After said ordinance had been considered in full by the Council President Pro Tempore Pritchard then moved for the adoption of said ordinance. The motion was seconded by Council President Smith. Thereupon, Council President Smith called for vote with the following results:

**Ayes:**
- Virginia C. Smith
- William S. ("Billy") Pritchard III
- Gerald A. Garner
- Lloyd C. Shelton
- Alice B. Womack

**Nays:** None

Council President Smith declared that the ordinance (No. 2085) is hereby adopted by a vote of 5—0 and, as evidence thereof, she signed the same.

6. **CONSIDERATION: ORDINANCE (NO. 2086) APPOINTING THE CITY TREASURER (EXHIBIT 8)**

Council President Smith introduced the ordinance in writing. It was then moved by Council President Pro Tempore Prichard that all rules and regulations which, unless suspended, would prevent the immediate consideration and adoption of said ordinance be suspended and that unanimous consent to the immediate consideration of said ordinance be given and that the reading of the ordinance at length be waived. The motion was seconded by Council President Smith and was unanimously carried, as follows:

**Ayes:**
- Virginia C. Smith
- William S. ("Billy") Pritchard III
- Gerald A. Garner
- Lloyd C. Shelton
- Alice B. Womack

**Nays:** None

Council President Smith declared the motion carried by a vote of 5—0.

After said ordinance had been considered in full by the Council President Pro Tempore Pritchard then moved for the adoption of said ordinance. The motion was seconded by Council President Smith. Thereupon, Council President Smith called for vote with the following results:

**Ayes:**
- Virginia C. Smith
- William S. ("Billy") Pritchard III
- Gerald A. Garner
- Lloyd C. Shelton
- Alice B. Womack

**Nays:** None

Council President Smith declared that the ordinance (No. 2086) is hereby adopted by a vote of 5—0 and, as evidence thereof, she signed the same.

7. **CONSIDERATION: ORDINANCE (NO. 2087) APPOINTING THE ASSISTANT CITY TREASURER (EXHIBIT 9)**

Council President Smith introduced the ordinance in writing. It was then moved by Council President Pro Tempore Prichard that all rules and regulations which, unless suspended, would prevent the immediate consideration and adoption of said ordinance be suspended and that unanimous consent to the immediate consideration of said ordinance be given and that the reading of the ordinance at length be waived. The motion was seconded by Council President Smith and was unanimously carried, as follows:
Ayes: Virginia C. Smith
      William S. ("Billy") Pritchard III
      Gerald A. Garner
      Lloyd C. Shelton
      Alice B. Womack

Nays: None

Council President Smith declared the motion carried by a vote of 5—0.

After said ordinance had been considered in full by the Council President Pro Tempore Pritchard then
moved for the adoption of said ordinance. The motion was seconded by Council member Womack.
Thereupon, Council President Smith called for vote with the following results:

Ayes: Virginia C. Smith
      William S. ("Billy") Pritchard III
      Gerald A. Garner
      Lloyd C. Shelton
      Alice B. Womack

Nays: None

Council President Smith declared that the ordinance (No. 2087) is hereby adopted by a vote of 5—0 and,
as evidence thereof, she signed the same.

8. INAUGURATION OF THE AFOREMENTIONED OFFICERS

Judge Hairston then administered the oaths of office to Sam Gaston, Steven Boone, William F. Angell
and Leigh Ann Sisson (Appendix 2), who then assumed their respective duties as officers of the City of
Mountain Brook.

9. ANNOUNCEMENT: THE NEXT MEETING OF THE CITY COUNCIL

Council President Smith announced that the next meeting of the Mountain Brook City Council will be
held on November 9, 2020 at 7:00 p.m. (internet video information to be announced). Please visit the City’s
web site (www.mtubrook.org) for more information.

10. CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, certify the above is a true and
correct transcript of the organizational meeting of the City Council of the City of Mountain Brook, Alabama
in-person and by Internet videoconference on November 2, 2020, and that the meeting was duly called and
held in all respects in accordance with the laws of the State of Alabama and bylaws of the City and that a
quorum was present.

__________________________________________
City Clerk Approved by
City Council November 9, 2020
ORDINANCE NO. 2088

90-DAY EXTENSION OF THE TEMPORARY MODIFICATION OF RESTAURANT SIDEWALK DINING REGULATIONS

WHEREAS, many small businesses and have suffered financially due to the business disruptions caused by government and business restrictions imposed to curtail the spread of the COVID-19 virus; and

WHEREAS, restaurants are among those small businesses facing economic challenges as those restrictions required them to cease on-premises dining; and

WHEREAS, the State of Alabama has now passed new guidelines which will permit restaurants to resume on-premises dining, albeit with appropriate safeguards; and

WHEREAS, the City, its small business community, restaurants and residents understand the importance of keeping appropriate safeguards in place so as maintain the progress that has been achieved through social distancing; and

WHEREAS, the City understands that continued productivity and economic activities are necessary to the welfare of business owners, employees, families and the entire Mountain Brook community and is committed to protecting both the economic health of its business owners and the health of the community; and

WHEREAS, one of the ways that the City believes on-premise dining can be made safer and compliant with State Health requirements is by use of outdoor dining areas, including those on sidewalks in front of dining establishments; and

WHEREAS, the City has detailed regulations and standards in place concerning the use of public sidewalks for dining operations and those regulations are designed to protect the character of the City’s historic villages; and

WHEREAS, during these unprecedented times, the City finds that temporary modification of some of those standards and regulations to be appropriate and necessary to permit business operations and the economic vitality of the community to continue, as well as to protect the health and safety of patrons.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Mountain Brook, Alabama, pursuant to relevant provisions of the Emergency Management Agency Act of 1955, as amended, Governor Kay Ivey’s State of Emergency Proclamations and the Alabama State Health Officer’s Orders as follows:

1. For a period of time beginning on the date of passage of this Ordinance and ending 90 days thereafter (the “Restaurant Relief Period”), Section 46-6 of the City Code containing Sidewalk Café Regulations shall be temporarily modified so as to facilitate and expedite the ability of restaurants to utilize sidewalks for dining operations. Such modifications are as follows:

   a) Village Design Review Committee review and approval provided for in Section 46-6 (b)(2) & (3) shall not be required.

   b) City Council review and approval required by Section 46-6 (b)(4) shall not be required; provided, however, that city clerk shall not issue a Sidewalk Café Permit until such time as the owners of both the restaurant and the property have executed the City’s Hold Harmless & Release Agreement in the form attached hereto.
c) New sidewalk cafés permitted pursuant to these temporary modifications and expansion of existing sidewalk cafes shall also be subject to the following in lieu of those regulations found in Sections 46-6 (c)(1) & (2):

   a. Limitations on the area permitted to be used by a sidewalk café during the Restaurant Relief Period shall be temporarily modified so as to allow the area to be expanded beyond the area directly in front of the building in which the restaurant is located, as may be approved by the City Clerk, provided that sufficient clearance for pedestrian passage is maintained pursuant to ADA requirements.

   b. Operation of outdoor areas approved under these temporary standards shall be restricted to evening hours from 5:00 p.m. until close of business.

   c. Tables and chairs shall be removed from the sidewalk and stored during the hours in which operation is not permitted.

   d) Sidewalk cafes approved prior to the passage of these modification and under the existing Code provisions shall be permitted to continue to operate pursuant to and within the scope of the City Council approval for such café.

2. All other provisions of City Code Section 46-6 that are not specifically modified hereby shall remain in full force and effect.

3. The Administrative Processing Fee imposed pursuant to Section 46-6(b)(1) is hereby waived for all applications submitted pursuant to this Ordinance.

4. Repealer. All ordinances or parts of ordinances heretofore adopted by the City Council of the City of Mountain Brook, Alabama, that are inconsistent with the provisions of this ordinance are hereby expressly repealed.

5. Severability. If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

6. Effective Date. This ordinance shall become effective immediately upon adoption and publication as provided by law. The provisions of this ordinance shall expire ninety (90) days from the date of passage unless otherwise extended or made permanent by the City Council.

ADOPTED: This 9th day of November, 2020.

________________________________________
Council President

APPROVED: This 9th day of November, 2020.

________________________________________
Mayor
ORDINANCE NO. 2089

AN ORDINANCE EXTENDING FOR 90-DAYS THE TIME RESTRICTIONS FOR THE ON-STREET PUBLIC PARKING LOCATED IN MOUNTAIN BROOK, CRESTLINE AND ENGLISH VILLAGES FIRST IMPLEMENTED UPON THE ADOPTION OF ORDINANCE 2068 ON MAY 13, 2020 AND 2074 ON AUGUST 10, 2020

WHEREAS, the City of Mountain Brook has been operating under a State of Emergency issued by the Governor of the State of Alabama and the City of Mountain Brook due to the COVID-19 pandemic; and

WHEREAS, COVID-19 is a highly contagious communicable disease spread by contact between people and activities of residents and patrons of City businesses have been restricted so as to minimize such contact through “social distancing”; and

WHEREAS, while COVID-19 impacts people of all ages, from children to the elderly, the greatest impact, in terms of severity, has been to the elderly and those with underlying medical conditions; and

WHEREAS, on this date, by order of the Governor and State Health Officials, the restrictions that were in place are being eased to permit the operation of most commercial establishments, including restaurants which, prior to today, had been restricted to “take out only” operation; and

WHEREAS, while most establishments may resume operation under careful social distancing guidelines, contactless commercial transactions remain the safest and most effective way to effectuate the social distancing, which is still believed to be necessary to manage the spread of COVID-19; and

WHEREAS, most of the City’s commercial enterprises in its historic villages are without dedicated private parking and rely on shared public parking to support operations; and

WHEREAS, in order to facilitate the use of “take out” services for restaurants and contactless “pick up” of other commercial goods, the City wishes to provide a parking zone on each block in Mountain Brook Village and Crestline Village for contactless delivery of services so those who want to utilize the services of commercial operations in those areas but want to maintain social distancing through contactless delivery will have a place to do so; and

WHEREAS, the City understands that continued productivity and economic activities are necessary to the welfare of business owners, employees, families and the entire Mountain Brook community and is committed to the economic health of its business owners and the health of the community; and

WHEREAS, during these unprecedented times, the City finds that temporary identification of “take out parking” and regulation of the use of spaces in those areas to be appropriate and necessary to allow the economic vitality of the community to continue, as well as to protect the health and safety of patrons.

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

Section 1. The parking spaces located on the following streets and identified as “Take Out Zones” on the attached parking maps shall be designated as “Take Out Only” and shall be used only for the delivery of food or other commercial goods directly to the automobiles parked therein:
Section 2. Vehicles parked in any "Take Out Zone" must be occupied and the occupants thereof must be waiting on the delivery of commercial services. Vehicles that are unoccupied or are parked in such areas for any other reason shall be in violation of this ordinance.

Section 3. Any person violating the provisions of Section 1 or 2 of this ordinance shall, upon conviction thereof, be punished within the limits and as provided by Section 50-107 of the Code of the City of Mountain Brook.

Section 4. Repealer. All ordinances or parts of ordinances heretofore adopted by the City Council of the City of Mountain Brook, Alabama, that are inconsistent with the provisions of this ordinance are hereby expressly repealed.

Section 5. Severability. If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

Section 5. Effective Date. This ordinance shall become effective immediately upon adoption and publication as provided by law. The provisions of this ordinance shall expire ninety (90) days from the date of passage unless otherwise extended or made permanent by the City Council.

ADOPTED: This 9th day of November, 2020.

________________________________________
Council President

APPROVED: This 9th day of November, 2020.

________________________________________
Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of an ordinance adopted by the City Council of the City of Mountain Brook, Alabama, as its meeting held on November 9, 2020, as same appears in the minutes of record of said meeting, and published by posting copies thereof on November 10, 2020, at the following public places, which copies remained posted for five (5) days as required by law.

City Hall, 56 Church Street Overton Park, 3020 Overton Road
Gilchrist Pharmacy, 2850 Cahaba Road Cahaba River Walk, 3503 Overton Road

City Clerk
ORDINANCE NO. 2090

AN ORDINANCE TO PROVIDE FOR STOP SIGNS (2) ON BRIAR OAK DRIVE
AT ITS INTERSECTION WITH RIVER OAKS ROAD
AND TO PROVIDE FOR PUNISHMENT THEREOF

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

Section 1. It shall be unlawful for the driver of any vehicle to cause or allow such vehicle traveling along Briar Oak Drive to enter its intersection with River Oaks Road when there is standing at such intersection a “Stop” sign facing in the direction of such driver without having first brought such vehicle to a complete stop within ten (10) feet of said intersection.

Section 2. Any person violating the provisions of this ordinance shall be punished by a fine not to exceed $500.00, or by imprisonment not to exceed 180 days, or both.

Section 3. All ordinances or portions of ordinances conflicting with this ordinance are hereby repealed.

Section 4. This ordinance shall become effective when published as required by law.

ADOPTED: This 9th day of November, 2020.

_________________________________________
Council President

APPROVED: This 9th day of November, 2020.

_________________________________________
Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of an ordinance adopted by the City Council of the City of Mountain Brook, Alabama, at its meeting held on this 9th day of November, 2020, as same appears in the minutes of record of said meeting, and published by posting copies thereof on November 10, 2020, at the following public places, which copies remained posted for five (5) days as required by law.

City Hall, 56 Church Street
Gilchrist Pharmacy, 2850 Cahaba Road
Overton Park, 3020 Overton Road
Cahaba River Walk, 3503 Overton Road

_________________________________________
City Clerk
October 28, 2020

Dear Resident,

The City of Mountain Brook will consider an ordinance making the intersection of Briar Oak Drive at River Oaks Road a 3-way stop at its November 9, 2020 meeting. This meeting will begin at 7:00pm. (See attached map.)

Due to the COVID-19 pandemic, City Council meetings are being held by Zoom. Please check our website on Friday afternoon, November 6th for information on how to access this meeting if you have any comments about the proposed 3-way stop at Briar Oak Drive and River Oaks Road. (www.mtnbrook.org > Government > Agendas & Minutes, scroll down to 11/09/20 –Agenda packet)

If you cannot participate in the Zoom Council meeting on Monday, November 9th, but would like to submit comments, please feel free to contact me at (205) 802-3803 or gastons@mtnbrook.org.

Sincerely,

Sam S. Gaston
City Manager
Briar Oak Drive at River Oaks Road
Proposed Stop Sign Locations

INSTALL ALL WAY PLACARD BELOW EXISTING STOP SIGN

INSTALL NEW STOP SIGN AND ALL WAY PLACARD
October 16, 2020

Dear Resident,

The City of Mountain Brook commissioned a traffic study of the Briar Oak Drive area. One item of discussion, on some of the traffic calming measures to be implemented in this area, is to make the intersection of Briar Oak Drive at River Oaks Road a 3-way stop. Stop signs would be placed on both sides of Briar Oak Drive at its intersection with River Oaks Road. (See attached map.)

The Mountain Brook City Council would like your opinion on this proposed 3-way stop. This topic will be discussed on the City Council’s pre-meeting before its formal meeting on Monday, October 26th. The pre-meeting agenda time is not set until the Friday before the meeting. Due to the COVID-19 pandemic, City Council pre-meetings and meetings are held by Zoom. Please check our website on Friday afternoon, October 23rd for information on the time and how to access the pre-meeting if you have any comments about this proposed 3-way stop. (www.mtnbrook.org > Government>Agendas & Minutes, scroll down to 10/26/20 pre-meeting agenda packet)

If you cannot participate in the Zoom pre-meeting of the City Council on October 26th, but would like to offer comments, please feel free to contact me at (205) 802-3803 or gastons@mtnbrook.org.

Sincerely,

Sam S. Gaston
City Manager
Briar Oak Drive at River Oaks Road
Proposed Stop Sign Locations

INSTALL ALL WAY PLACARD BELOW EXISTING STOP SIGN

INSTALL NEW STOP SIGN AND ALL WAY PLACARD
STORMWATER ORDINANCE AMENDMENT

Recent Background
On October 26, 2020, the city council carried over the proposed amendment to the stormwater ordinance for two reasons: 1) directed staff to send the proposed changes to the Homebuilder’s Association and other engineering professionals for their input, and 2) to confirm whether or not the proposed ordinance changes would be applicable to land disturbance customarily incidental to homeowner upkeep and landscape of residential properties (not associated with any building permit or construction).

Notification of Design Professionals
The list of professionals notified of changes and asked for input is as follows:
Sain Associates
Lead PE, Alicia Bailey and Darren Hamrick

Insite Engineering
Lead Engineer/Partner, James Cassidy

Meadows Contracting
Senior Project Manager Greg Adkins

TCC Construction
Owner Marbury McCullough

Murphy Homebuilders
Senior Project Manager Daniel Statum

Franks Building Company
Owner Chris Franks

- Consult Authors
School Engineering Consultants
Owner Walter Schoel
Lead PE William Thomas

Input from these sources is still coming in and will be discussed at the council hearing. (So far, no negative feedback)...

Land Disturbance Not Associated with Construction
Staff has determined that incidental landscape as is customary for private residential lots is currently not subject to the provisions of the stormwater ordinance, and the proposed changes herein do not alter said exemptions (see attached Section 113-53 for exemptions to the stormwater ordinance).
Increased Bond Required for Soil Erosion and Sedimentation Control
In addition to strengthening the stormwater ordinance the ad hoc committee recommends that the bond required for soil erosion and sedimentation control be increased significantly, to be in-line with contemporary construction costs. The current bond requirement is $3,000 for a new construction project (where a land disturbance permit is required). The attached ordinance change raises the bond to $10,000.

Increased Re-Inspection Fees for Site Failures due to Inadequate Stormwater Mitigation
The ad hoc committee also recommends adding to the fee schedule fees associated with second and third stormwater inspections as necessitated by failures to comply. The re-inspection fee is currently $100 for all re-inspections. The attached ordinance is drafted so as to add a second re-inspection fee of $200 ad a third re-inspection fee of $500.

Reference
Also, the proposed changes to the Chapter 14, Fee Schedule (for failures to comply and for associated re-inspection fees) make a reference to events such as “suspension or revocation;” the associated Sec 109-44(f) regarding suspension and revocation is attached for reference.

Financial Incentives for Low Impact Development (LID) or Green Infrastructure Practices (GIP)
Of special note is one of Mr. Schoel’s recommendations that: “Any site with a stormwater management design that utilizes LID/GIPs to capture and manage the runoff from ninety (95) percent or greater of the proposed impervious area would receive a no fee permit allowance as approved by the City Council. The stormwater management design must still comply with the minimum requirements set forth in this ordinance.”

The idea here is that the building permit fee would either be waived at permit issuance, or partially (or wholly) refunded at project completion, as an incentive for developers/homeowners to go above and beyond the mitigation measures required by the stormwater ordinance.

While the ad hoc committee was intrigued by this recommendation, some members were of the opinion that a no fee permit might be too ambitious, but that a partial allowance (50%) may be palatable. The proposed changes to Section 129-213 (d) of the stormwater ordinance include a 50% allowance.

Previous Attachments
Attached please find:
1. Walter Schoel’s recommendations; they are put forth as a discussion of 5 goals, each with its own explanation and recommended language to achieve the goal. The recommended language has been highlighted in yellow.
2. The stormwater ordinance (in its entirety) with Walter Schoel’s recommend language inserted into it. This is done for context, so the reader may have a better understanding of how the language fits into the overall ordinance. Again, the recommended language carries over highlighted in yellow (for easy cross-reference).
3. Draft ordinance, in which you will find the recommended language in actual ordinance form. The draft ordinance does not contain the entire stormwater ordinance (as it would be too lengthy), but contains snippets of the pertinent sections to be amended.

4. Draft ordinance amendment pertaining to Chapter 14 (Fee Schedule) and Article II (Soil Erosion and Sedimentation Control Bonds).

5. Excerpt of map of Steep Slopes within the City of Mountain Brook

Background
Thus far in 2020 the southeast region of the U.S. has experienced rainfall in the range of “much above average” to “record precipitation.” As a result, the city of Mountain Brook has experienced numerous challenges with regard to stormwater mitigation. In spite of COVID-19, construction in the city has maintained a steady pace, with an average of 40 active construction sites (involving land disturbance) at present.

Additionally impactful is the fact that, over time, the natural progression of site development in the city is such that the sites that are easier to develop and manage and built out and those that are more difficult to develop (often due to steep topography) are the only sites still “up for grabs.” With Mountain Brook being a highly sought-after community of residence, newcomers continue to accept the challenges associated with building on the most difficult sites. A few such long vacant sites have been sold and developed in 2020, with less than desirable results from a stormwater management perspective.

In particular, there is an active construction site on a steep slope on Overbrook Road, for which the challenges with stormwater compliance in 2020 have resulted in repeated failures for run-off containment, numerous complaints to the city, repeated inspections by city staff and Cahaba River Keepers, monetary fines, and even a road closure wherein the police department had to respond in order to direct traffic around a mud slide. In the case of this particular lot development, it wasn’t necessarily that the developer didn’t attempt to comply with the city’s stormwater ordinance; the problem was more so that the city’s ordinance wasn’t strong enough to require preventative measures that could have been more effective.

Of additional concern, there is another vacant lot on Overbrook Road that has recently sold and is intended for development in the near future. The problems with site mentioned in the previous paragraph, as well as the fear of similar run-off problems for the intended new construction site on Overbrook Road, have raised numerous concerns among local citizens and stormwater mitigation professionals (such as the Cahaba River Society, and the Cahaba Riverkeepers). To this end, the city has developed a 2-prong approach to improving the stormwater mitigation challenges that the city faces. The first prong is to strengthen the city’s stormwater ordinance; and the second prong is to increase staff assessment of active land disturbance sites, to increase routine inspections of such sites, and to reallocate existing staffing resources to respond to stormwater failures during significant rain events.

Ad Hoc Committee Process
Over the summer of 2020 the city has reorganized its approach to stormwater management, and formed an ad hoc committee to study the stormwater ordinance and make recommendations to the city council. The committee included representatives from the Cahaba River Society and
Cahaba Riverkeepers, two council members, and city staff. Prior to beginning deliberations at the ad hoc committee level, the city first solicited comments and recommendations from engineer Walter Schoel, and from stormwater inspectors from other local municipalities. Recommendations from all sources were forwarded to the ad hoc committee for consideration.

Mr. Schoel reviewed the city’s stormwater ordinance with the intention of providing specific written recommendations on modifications to the ordinance that would strengthen it and make it more meaningful and effective. The purpose of his review was to make recommendations to the ordinance that would eliminate adverse stormwater impacts due to development and re-development of properties within the City of Mountain Brook, and to incorporate and promote the use of Low Impact Development (LID) and Green Infrastructure (GI) practices for managing stormwater runoff. Mr. Schoel’s recommendations are attached and have been incorporated into the stormwater ordinance. At the end of Mr. Schoel’s 5 recommendations there is one additional goal and recommendation from city staff/Cahaba River Society regarding a phased approach to land disturbance.
(suggested revisions inserted)

CITY OF MOUNTAIN BROOK
STORMWATER DETENTION ORDINANCE
ARTICLE III. - STORMWATER DETENTION

Sec. 113-224. - Scope of the article and definitions.

(a) The terms, conditions, and requirements established by this article shall apply to all projects or developments that meet both of the following criteria:

(1) The project or development entails construction on or over land, paving on or over land, or other disturbance or modification of land that will have a measurable or demonstrable increase in the amount and/or rate of discharge of stormwater runoff when compared to such data prior to development; and

(2) The project or development is one that requires review and approval of either the public works or inspections departments of the city under other provisions of this Code.

(b) This article shall apply to and be enforceable against the owner of the property that is subject to development of the type described above, and all persons, firms, or corporations engaged in activities for which authorization is required under the terms of this article.

(c) Definitions:

(1) Maximum Building Area – The largest portion of the lot or parcel that can be occupied by the main building, including porches, carports, accessory buildings, and other structures as permitted for the use in question by the zoning ordinance.

(2) Maximum Impervious Area – The maximum building area permitted for the use in question by the zoning ordinance, plus an additional five percent of the parcel on which the project is to be constructed. The term "impervious area" means the developed area of the lot, including house and accessory structures, as well as surfaces that do not allow the free passage of water through the material into the ground. The term "impervious area" includes sidewalks, driveways, parking areas, decks, and patios, unless such surfaces are constructed of materials that allow passage of water into the ground at a rate equal to the predeveloped condition.


Sec. 113-225. - Nonpermitted development activities prohibited.

No construction or building permit shall issue and no activity of the type described in section 113-224(a) shall be undertaken pursuant to any such permit unless and until the owner of the property or his duly authorized agent shall have first secured a permit from the city that evidences compliance with the terms, conditions, and requirements of this article (hereinafter referred to as a "stormwater detention permit"). Upon issuance of the stormwater detention permit, no work in furtherance of the development shall proceed except in conformity with the plans and specifications upon which issuance of the permit was based.


Sec. 113-226. - General stormwater detention and design objectives and criteria.

(a) The owner of land for which development is proposed, or a duly authorized agent thereof, shall submit to the city detailed engineering plans for the site proposed for development that will, when installed or otherwise implemented, minimize or, if practicable, eliminate any difference in the rate or velocity and volume of water ("differential runoff") discharged from the parcel for which the development or project is proposed prior to and after completion of the project.
(b) The goal of stormwater management design shall be to mimic the pre-development hydrology of the site. Post-development stormwater peak flows for two-year through 100-year, 24-hour storms shall be less than or equal to pre-development values. The engineering analysis equalize amounts and rates of stormwater discharge based on peak flows for two-year through 100-year, 24-hour storms, and shall assume that land is fully developed in accordance with the city's comprehensive land use plan. Engineering data supporting differential runoff and detention volume calculations, as well as the adequacy of detention, discharge, and control structures, shall be submitted to the city for review. A description of the method to be used in maintaining components of the stormwater management system shall also be submitted.

(c) Stormwater management design will ordinarily be based on development of a single tract or parcel of land unless special topographical, drainage, or engineering considerations require design based on a larger area in order to achieve the purposes of this article. Where development activity is proposed for a lot or parcel that is part of a larger development plan, such as a subdivision that is to be developed in phases or sectors, the city may require that design criteria be based on the total development or project. When appropriate, land that is not within the city limits should be included within the engineering studies that form the basis of the stormwater detention permit application. Conversely, while lots within a subdivision that has received a stormwater management permit will ordinarily be covered by the subdivision permit, development of individual lots may require the installation of detention facilities and associated design features if the "maximum impervious area" exceeds the amount allowed by this article, if conditions in the receiving system are inadequate, or if other harmful effects are likely to occur in the absence of appropriate detention facilities.

(d) Stormwater management design shall be based upon and shall take into account, permitted uses, densities, lot sizes, and other relevant provisions of the city zoning ordinance.

(e) Modifications or exceptions to the design criteria set forth in this article may be approved by the city when strict application of the terms of the article would create a material hardship and would not serve the purposes of the chapter; provided, however, that nothing herein shall be deemed to authorize any deviation from the terms of this article without approval of the city.

(f) Any material modification of any existing stormwater detention system shall be subject to the terms and conditions of this article.


Sec. 113-227. - Detention facilities.

(a) General criteria.
   (1) Detention facilities shall be located within the parcel limits of the project under consideration.
   (2) Subsurface detention may be permitted with adequate verification of structural adequacy.
   (3) No detention or ponding will be permitted within public road rights-of-way.
   (4) Location of detention facilities immediately upstream or downstream of the project will be considered by special request if proper documentation is submitted with reference to practicality, feasibility, and proof of ownership or right-of-use of the area proposed.
   (5) Any area susceptible to or designed as overflow by higher design intensity rainfall (ten-year frequency and above) shall be sodded or paved.
   (6) Methods of detention such as seepage pits, French drains, etc., are discouraged. If such methods are proposed, confirmation of soils data, percolation, geological features, and other relevant data shall be submitted with the application.

(b) Control features.
(1) Detention facilities shall be provided with effective control structures. Plan view and sections of the structure with adequate detail shall be included in plans.

(2) Lowflow pipes shall not be smaller than eight inches in diameter to minimize maintenance and operating problems, except in parking lot and roof retention systems, for which the minimum size of openings shall be designed specifically for each condition. The lowflow pipe shall be provided with a bar-screen on a minimum 2:1 slope to reduce blockage by debris.

(3) The overflow opening or spillway shall be designed to accept the total peak runoff of the improved tributary area.

(c) Discharge systems. Sizing of the system below the control structure shall be for the total improved peak runoff tributary to the structure with no allowance for detention.

(d) Maintenance.

(1) Detention facilities, when required, are to be built in conjunction with the storm sewer installation and/or grading and must be fully operational as soon as is practicable after vegetation is removed from the land. Silt and debris connected with early construction must be removed periodically from the detention area and control structures in order to maintain full storage capacity.

(2) Responsibility for maintenance of detention facilities shall remain with the property owner and the developer until such time as applicable escrows are released and the duty to permanently maintain the facilities has been transferred to and vested in trustees, officers, or other identified persons or entities by means of binding covenants, trust indentures, or like undertakings. The nature, content, and form of the instrument by which maintenance obligations are established shall be subject to the review and approval of the city and shall be enforceable by the city. The city shall have a lien on real property to the extent necessary to recover its costs in enforcing any maintenance obligation imposed upon the owner or developer or any successor thereto under the terms of this article.

(3) The city will not accept maintenance responsibility for detention facilities required under this article, and no action on the part of the city to enforce or remedy any violation of this article shall be deemed an assumption of responsibility or obligation to repair or maintain the facilities.

(e) Verification of adequacy.

(1) Adequacy of stormwater management design shall be supported by a written engineering analysis that shall be submitted to the city and that shall include, at a minimum, the following data:
   a. Existing drainage area and peak flows to the detention facility;
   b. Proposed drainage area and peak flows to the detention facility;
   c. Inflow hydrograph for each design storm;
   d. Outflow hydrograph for each design storm;
   e. Storage elevation and discharge elevation calculations;
   f. Required storage volume for each design storm;
   g. Statement of methodology used for the detention facility design;
   h. Routing calculations for each design storm; and
   i. A downstream hydrologic assessment shall be made to a point where the drainage area controlled by the detention facility comprises ten percent of the total drainage area. For example, if the detention pond controls five acres, peak flows shall be checked downstream until the drainage area is 50 acres.
Verification that the site runoff will not contribute to erosion and scour of downstream receiving channel for the 2-year, 24-hour storm event. This includes a detailed description of erosion prevention measures, such as energy dissipation and velocity control devices to be implemented and velocity calculations at each site cutfall for the 2-year, 24-hour design storm.

(2) For all projects, routing calculations shall be submitted in legible tabulated form. Proof of adequacy of volume of retention and sizing computations for low-flow structures shall also be submitted. Features of stability and safety may also need to be documented if the scope of the project requires special attention in this area of design.


Sec. 113-228. - Requirements applicable to particular types of development and detention methods.

(a) **Common ground projects.** Detention facilities should be located in common areas. Projects that include common property shall establish (in the recorded plat) maintenance and access easements for the detention facilities and shall include provisions for maintenance in the trust indentures.

(b) **Professional, office park, local business, community shopping, mixed use and PUD.** Detention areas in these districts will be permitted, provided that maintenance and access agreements are established and recorded when required by the city.

(c) **Multiple residential.** Detention areas in multiple-family residential zoning districts residence D and residence E may require maintenance and access easements and, with respect to detention facilities that are located in or on common areas or property, appropriate deed restriction or trust indentures.

(d) **Single-family residential.** Detention areas in residential zoned districts residence A, residence B, residence C, estate residence, and clustered residence may be required if deemed necessary by the city. In such cases a trust indenture, covenant, or other appropriate instrument may be required in order to provide maintenance responsibility and funding therefor. The recorded plat shall be clearly marked with the legend “detention area.”

(e) **Single lot development.** Development of single lots shall be in accord with applicable provisions of the zoning ordinance, provided that the maximum impervious area shall be limited to the maximum building area permitted for the use in question by the zoning ordinance, plus an additional five percent of the parcel on which the project is to be constructed. For purposes of this article, the term “impervious area” means the developed area of the lot, including house and appurtenant structures, as well as surfaces that do not allow the free passage of water through the material into the ground. The term “impervious area” shall include, without limitation, sidewalks, driveways, parking areas, decks, and patios, unless such surfaces are constructed of materials that allow passage of water into the ground at a rate equal to the predeveloped condition. The percentage of building and impervious areas shall not exceed that allowed by this article unless an approved method of stormwater detention or low impact development (LID)/green infrastructure (GI) practices are used to mitigate increases in stormwater runoff. If stormwater detention is used, the design shall comply with the minimum requirements set forth in this article. The LID or GI measure design shall comply with the design standards in the “Low Impact Development Handbook for the State of Alabama”, Alabama Department of Environmental Management et al. and comply with the minimum requirements set forth in this ordinance. Design of LID or GI measures. If landscaping and/or plantings are used, the design shall be performed by a registered architect, landscape architect, or engineer, and shall include plans, details, and calculations demonstrating compliance with the requirements of this article. Developments on steep lots (slopes 12% or greater in the development or re-development area) are required to provide a stormwater management design to mitigate the increased stormwater runoff. The design shall be supported by a written engineering analysis.
verifying the adequacy of the stormwater management design for the property. The design shall comply with the minimum requirements set forth in this ordinance. In addition, the stormwater management design shall ensure that the site runoff will not contribute to erosion and scour of the downstream receiving water for the 2-year, 24-hour storm event. For existing properties that exceed the maximum impervious area (maximum building area plus an additional five (5) percent of the parcel area), making improvements to the property that would further increase the impervious area, excluding minor alterations, will require a stormwater management design to mitigate the increased stormwater runoff. The maximum building area plus an additional five (5) percent of the parcel area in accordance with the zoning ordinance will be the basis for quantifying the stormwater runoff to mitigate in the design. The design shall be supported by a written engineering analysis verifying the adequacy of the stormwater management design for the property. The design shall comply with the minimum requirements set forth in this ordinance. Any new development or re-development shall submit to the city a phased site development plan with a vegetated buffer or Engineered surfaces equal to (10%) or greater of the disturbed area. The vegetated buffer or surface shall prevent soil erosion and filter surface run off prior to leaving the site. The vegetated buffer is to be located, where practical, outside of the perimeter of erosion and sediment control best management practices for the site. The turbidity of the site stormwater discharges shall not cause or contribute to a substantial visible contrast with the natural appearance of the receiving water.

(f) **Dry reservoirs.** Wet weather ponds or dry reservoirs shall be designed with appropriate safety, stability, and ease of maintenance features, and shall not exceed five feet in depth. Maximum side slopes for grassed reservoirs shall not exceed one foot vertical for two feet horizontal (2:1) unless adequate measures are included to provide for the above-noted features. In no case shall the limits of maximum ponding elevation be closer than 30 feet horizontally from any building and less than two feet (vertically) below the lowest sill elevation of any building to be located on the parcel to be developed. The entire reservoir area shall be seeded, fertilized and mulched, sodded, or paved prior to release of surety if required by the city. Wet weather ponds or dry reservoirs shall be enclosed by fencing a minimum of six feet high, with one gate and lock provided. The applicant is encouraged to use a fencing material aesthetically compatible with the surrounding area and the development.

(g) **Open channels.**

1. Normally permitted open channels may be used as detention areas, provided that the limits of the maximum ponding elevation are not closer than 30 feet horizontally from any buildings, and not less than two feet (vertically) below the lowest sill elevation of any building to be located on the parcel to be developed. No ponding will be permitted within public road rights-of-way. Maximum depth of detention in open channels shall be five feet.

2. For trapezoidal sections, the maximum side slopes of the detention area of the channel shall not exceed one foot vertical for two feet horizontal (2:1). Safety, stability, and ease of maintenance shall be incorporated into channel section design.

3. The entire reservoir area of the open channel shall be seeded, fertilized and mulched, sodded, paved, or lined prior to release of escrows.

4. The hydraulic elevations resulting from channel detention shall not adversely affect adjoining properties.

(h) **Permanent lakes.**

1. Permanent lakes with fluctuating volume controls may be used as detention areas, provided that the limits of maximum ponding elevations are no closer than 30 feet horizontally from any building and not less than two feet (vertically) below the lowest sill elevation of any building located on the parcel to be developed.

2. Maximum side slopes for the fluctuating area of permanent lakes shall be one foot vertical to two feet horizontal (2:1).
(3) Maximum fluctuation from permanent pool elevation to maximum ponding elevation shall be
three feet.

(4) Special attention should be given to safety considerations in designing permanent lakes in
residential areas.

(5) Viability of the permanent impoundment shall be considered. Generally, the permanent pool
should be no greater than one-tenth the size of the tributary drainage area. The minimum depth
of at least 25 percent of the permanent pool area should be no less than eight feet. Allowances
for silting under denuded soil conditions (during construction) for a period of at least one year is
also recommended.

(6) The entire fluctuating area of the permanent reservoir shall be seeded, fertilized and mulched,
sodded, or paved prior to release of surety if required by the city. Any area susceptible to or
designed as overflow by higher design intensity rainfall (ten-year frequency) shall be sodded or
paved.

(i) Parking lots. Detention is permitted in parking lots to a maximum depth of eight inches. In no case
should the maximum limits of ponding be designed closer than ten feet from a building unless
waterproofing of the building and pedestrian accessibility are properly documented. The minimum
freeboard from the maximum ponding elevation to the lowest sill elevation shall be one foot.


Sec. 113-229. - Application and appeal process.

(a) Letter of application. All proposed projects shall be submitted with a letter of application that shall
include the name of the project; the name, address, and telephone number of the property owner
and the developer; the name, address and telephone number of the owner/developer's consulting
engineer; and a description of the development for which the stormwater detention permit is sought.

(b) Engineer's seal. All plans and specifications submitted for review and/or approval shall be prepared
by, or under the direct supervision of, a registered professional engineer, licensed in the state, and
shall meet the minimum standards and requirements of the city and other applicable authorities.
Each of the plan, profile, and special drawing sheets for a project shall bear a legible stamp of the
professional engineer in charge of the project or development. If the name or license number is not
clear, the signature and number shall be added.

(c) Predesign conference.

(1) The applicant and the consulting engineer are required encouraged to contact the city for a
predesign conference at the conceptual stage of a project in order to clarify the application of
this article to the development, address any questions, and minimize cost, delay, and
inconvenience to the developer.

(2) Subsequent conferences during the preparation of plans may be arranged by the consulting
engineer or the developer to obtain preliminary, informal decisions on items requiring
clarification.

(d) Review fees. Each application for a stormwater detention permit shall include a nonrefundable fee
as set forth in chapter 14. Should the actual, reasonable cost to the city for engineering or other
technical review of the application exceed the amount set forth in chapter 14, the additional cost shall
be paid by the applicant prior to issuance of the detention permit. Any site with a stormwater
management design that utilizes LID/GIPs to capture and manage the runoff from ninety five (95)
percent or greater of the proposed impervious area will receive a reduced permit fee allowance of
fifty (50) percent. The stormwater management design must still comply with the minimum
requirements set forth in this ordinance.
(e) *Issuance of certificate.* As soon as is practicable following submission of all materials required under this article and any additional material or information that may be required by the city, the city shall approve or disapprove in writing the application for a stormwater detention permit. Prior to issuance of a final decision on the application, the city may engage in informal discussions with the applicant that are aimed at resolving any matters that could ultimately impede or prevent approval of the permit. Conditional approval may be given, but should be reserved only for exceptional circumstances under which conditional approval would better serve the purposes of this article.

(f) *Appeal of adverse decision.*

1. In the event favorable action is not taken on the application within 60 days of its filing, the applicant may appeal the city's adverse action (or its failure to act) in writing to the city planning commission. After setting the matter for hearing, the planning commission may review and determine any issue or matter made the basis of the appeal, but may condition its agreement to accept and decide any appeal on the applicant's agreement to pay for the cost of any additional testing or evaluation that the planning commission may reasonably require in connection with its review of the case. The planning commission may likewise review any decision to suspend or revoke any stormwater detention permit.

2. All appeals must be made in writing, must specify the grounds for appeal, and must be accompanied by a payment as set forth in chapter 14 to cover the cost of additional processing and review. Appeals should be addressed to the attention of the city manager and must be received by the city manager within 30 days of the date of the written decision that is the basis of the appeal.

3. Following a review of the appeal, the planning commission shall be authorized to sustain, reverse, or modify the decision from which the appeal is taken, or to grant such other relief, if any, as it believes to be warranted under the facts and circumstances, and with due regard to the applicable provisions of this article and the purposes sought to be served hereby.

4. The planning commission shall decide any appeal presented to it within 90 days of its filing. The decision of the planning commission shall be in writing and shall be final, subject to any remedy at law or in equity that may be available to the applicant.


Sec. 113-230. - Disclaimer of liability.

Nothing in this article and no action, statement, approval, or decision made under authority of the article shall be deemed to constitute a representation, warranty, or guarantee with respect to the adequacy of any stormwater management facility or design or to constitute an assumption of any legal duty or liability with respect thereto.


Secs. 113-231—113-240. - Reserved.
For Reference (no changes proposed)

Sec. 113-53. - Permit exemptions.

(a) Land disturbing activities shall include any land change that may result in soil erosion from water or wind and the movement of sediment, including, but not limited to, the clearing, dredging, grading, excavating, transporting and filling of land, except that the term shall not include the following:

(1) Agriculture;
(2) Silviculture;
(3) Such minor land disturbing activities as home gardens, landscaping on individual residential lots or parcels (excluding landscaping performed by, or on behalf of, a developer or builder, who builds a house on any such lot or parcel), home repairs, home maintenance work, the construction, maintenance or repair of accessory structures and other related activities that result in minor soil erosion;
(4) Minor land disturbing activities such as individual connections for utility services and sewer services for single- or two-family residences, minor grading for driveways, yard areas and sidewalks, excluding any grading done by, or on behalf of, a developer or builder in connection with the construction of a house;
(5) Minor maintenance, minor repair, and the minor extension of any existing underground public utility lines, except sewer lines; provided, that the utility company that owns such lines has received approval of a general BMP plan from the authority for such maintenance, repair and extension; and provided further, that any utility company making a minor extension in connection with which the land disturbed consists of more than 1,000 linear feet must give the official written notice of such extension prior to the commencement of such minor extension;
(6) The construction, repair or rebuilding of railroad tracks;
(7) Minor subsurface exploratory excavations under the direction of soils engineers or engineering geologists;
(8) The opening of individual burial sites in property that has been approved for such use by all necessary governmental authorities; and
(9) Digging of water wells or environmental monitoring wells.

(b) The activities referred to in subsections (a)(1) through (a)(9) of this section may be undertaken without a permit; however, the persons conducting these excluded activities shall remain responsible for otherwise conducting such activities in accordance with the provisions of this article and any other applicable law, including the proper control of sedimentation and runoff.

(Code 1996, § 4-42; Ord. No. 1377, § 3.02, 7-12-1999)
Sec. 109-44. - Issuance of permit; expiration, suspension or revocation.

(a) The purpose of permitting plans and specifications is to ensure compliance with this article. The official's review and permitting of plans and specifications is not intended as approval of the overall layout, structural design, situation control, or construction procedures. These responsibilities shall remain with, and be those of, the owner and/or his consultants.

(b) The application, plans and specifications, reports, affidavits and other required documents shall be filed with the official as required by this article. Such plans may be reviewed by other departments of the city to assess compliance with the laws and ordinances under their jurisdiction. If the official is satisfied that the work described in an application for a permit and the plans and specifications filed therewith conform to the requirements of this article and other pertinent laws and ordinances, that all applicable fees have been paid and necessary surety obtained, he shall issue a permit to the owner.

(c) One set of permitted plans, specifications and other required documents shall be retained by the official for a period of not less than one year from date of completion of the work covered therein. It shall be the responsibility of the owner to maintain one of the sets of permitted plans, specifications and other required documents on the site at all times during which the work authorized thereby is in progress.

(d) The issuance or granting of a permit shall not allow, or be construed as approval of, violation of any of the provisions of this article or any other laws or regulations; and such permit shall not be valid, except insofar as the work or use which it authorizes is lawful.

(e) The issuance of a permit shall not prevent the official from thereafter requiring that:

(1) Errors or inaccuracies in the approved application, including the related plans and specifications, be corrected;

(2) Changes due to unforeseen problems in the approved application, including the related plans and specifications, be made; or

(3) Other modifications be made to the permitted plans and specifications and in the conduct of operations at the site if significant problems occur which were not considered at the time the permit was issued.

(f) The official may require that all work being performed at the site be suspended until corrections, changes or modifications have been made to the satisfaction of the official. In the event corrections, changes or modifications are not made to the satisfaction of the official within the time specified by the official, the official may:

(1) Revoke the related permit;

(2) Cause all work being performed at the site to be ceased; and

(3) Cause such additional work to be performed, at the expense of the applicant, as the official determines will eliminate any hazards or nuisances existing at the site.

(g) All permits issued by the official under the provisions of this article shall expire by limitation and become null and void 24 months from the date of the issuance of the permit. In addition, all permits issued by the official under the provisions of this article shall expire by limitation and become null and void if the work authorized by such permit is not commenced within 90 days from the date of issuance of the permit; provided, that one or more renewals of such permit may be granted, upon written request to the official for good cause shown and upon the payment of a reasonable fee to cover the cost of the city in considering such request for renewal so long as the work shall comply with all of the requirements of this chapter and other applicable laws and regulations in effect at the time application for renewal is made. The work authorized by such permit shall not be suspended or abandoned at any time after the work is commenced and shall be carried to completion or the permit shall be terminated by the official and become void. Work authorized by a permit shall be presumed suspended or abandoned if no such authorized work is conducted at the site for a period of 14 consecutive days as determined by the official. If an applicant shows, to the satisfaction of the
official, good cause for not conducting work during such period, the official may, in the official’s discretion, choose not to terminate such permit.

(h) The official may suspend or revoke a permit issued under provisions of this article by giving notice in writing to the owner whenever the permit is issued in error, or on the basis of incorrect information supplied or in violation of any of the provisions of this article or any of the provisions of any regulation or any other ordinance.

(i) The work or use authorized under the permit issued in accordance with the provisions of this article shall only be as expressly set forth in such permit and, to the extent expressly incorporated by the permit, the application submitted in connection with such permit, including, if applicable, the plans and other written documentation. Should the owner desire to significantly modify the scope and/or nature of the work to be conducted pursuant to a permit issued by the city, or if the cost of construction exceeds that which was submitted to or determined by the building official as the basis for the cost of the permit fees addressed in section 109-2, the owner must submit a revised application for such work in accordance with the provisions of this article. The official, at the option of the official, may amend the permit previously issued or issue a new permit; provided that such application meets the requirements of this article, that any additional fees are paid, and that all of the other requirements of this section have been satisfied. In the event that the cost of construction exceeds that originally submitted or determined to be the appropriate basis for the permit fee, the owner, contractor or other person submitting the original application shall be responsible for any additional fees due after calculating the permit fee upon the updated estimate or construction cost. A failure to revise or update said permit when costs exceed that originally made the basis of the permit within 30 days of the date upon which said basis is exceeded shall result in an administrative penalty equal to the cost of the revised permit in addition to all other penalties which may be imposed for a violation of said ordinance.

(Ord. No. 1737, § 1(4-5.9), 6-25-2007; Ord. No. 1862, § 4, 9-26-2011)
CITY OF MOUNTAIN BROOK
STORMWATER DETENTION ORDINANCE

September 9, 2020

This document provides recommendations on modifications to the City’s Stormwater Detention Ordinance. The purpose of the proposed revisions is to eliminate adverse stormwater impacts due to development and re-development of properties within the City of Mountain Brook. Additionally, the revisions incorporate and promote the use of Low Impact Development (LID) and Green Infrastructure (GI) practices for managing stormwater runoff. For each revision noted in the section below, the goal and objective of the revision is stated and the rationale for the revision is also noted. Also included below are relevant definitions to terms used in the existing and proposed ordinance language.

Definitions

Maximum Building Area – The largest portion of the lot or parcel that can be occupied by the main building, including porches, carports, accessory buildings, and other structures as permitted for the use in question by the zoning ordinance.

Maximum Impervious Area – The maximum building area permitted for the use in question by the zoning ordinance, plus an additional five percent of the parcel on which the project is to be constructed. The term "impervious area" means the developed area of the lot, including house and accessory structures, as well as surfaces that do not allow the free passage of water through the material into the ground. The term "impervious area" includes sidewalks, driveways, parking areas, decks, and patios, unless such surfaces are constructed of materials that allow passage of water into the ground at a rate equal to the predeveloped condition.

Pre-development – The existing conditions of the site prior to the development or re-development project.

PROPOSED REVISIONS

GOAL: Prevent site development from increasing stormwater runoff (i.e. post-development flows ≤ pre-development flows)

1. The current detention ordinance does not make clear the extent that stormwater should be mitigated if the detention ordinance requirements are triggered. We recommend explicitly stating in the ordinance that the post development flows must be less than or equal to the pre-development flows. This will mitigate adverse impacts to neighboring properties by increasing the impervious area (building area plus 5% parcel area) above the maximum allowable. Modify Section 113-226(b)/Section 3(b) of the Detention Ordinance as follows (changes shown in bold):

   (b) The goal of stormwater management design shall be to mimic the pre-development hydrology of the site. Post-development stormwater peak flows for two-year through 100-year, 24-hour storms shall be less than or equal to pre-development values. The engineering analysis shall assume that land is fully developed in accordance with the city's
comprehensive land use plan. Engineering data supporting differential runoff and detention volume calculations, as well as the adequacy of detention, discharge, and control structures, shall be submitted to the city for review. A description of the method to be used in maintaining components of the stormwater management system shall also be submitted.

**GOAL:** Protect receiving streams from erosion and scour.

2. No language is currently present in the detention ordinance to address increases in stormwater velocities due to site development. We recommend adding a requirement to the engineering analysis submittal to address stormwater velocity. Add bullet in Section 113-227(e)(1)/Section 4(e) to state the following:

   j. Verification that the site runoff will not contribute to erosion and scour of downstream receiving channel for the 2-year, 24-hour storm event. This includes a detailed description of erosion prevention measures, such as energy dissipation and velocity control devices to be implemented and velocity calculations at each site outfall for the 2-year, 24-hour design storm.

**GOAL:** Ensure proper stormwater management (flow and velocity) for steep lots to protect neighboring properties and receiving streams.

3. Development of steep lots, even if under the maximum building area, can create adverse impacts to downstream properties and receiving waters due to increased runoff and velocities. We proposed that the development or re-development of lots with a slope of twelve (12) percent or greater in the developed or re-developed area be required to provide a stormwater management design with an engineering analysis submitted to the City. Add the following to Section 113-228(e)/Section 5(e).

   Developments on steep lots (slopes 12% or greater in the development or re-development area) are required to provide a stormwater management design to mitigate the increased stormwater runoff. The design shall be supported by a written engineering analysis verifying the adequacy of the stormwater management design for the property. The design shall comply with the minimum requirements set forth in this ordinance. In addition, the stormwater management design shall ensure that the site runoff will not contribute to erosion and scour of the downstream receiving water for the 2-year, 24-hour storm event.

**GOAL:** Create a criterion that would trigger existing properties over the building area maximum to mitigate stormwater flows and provide an engineering analysis. This criterion would actually make flows from the site less than current conditions.

1. The current detention ordinance is not clear on re-development of existing structures that are over the maximum building area and maximum impervious area. We propose to make redevelopment of these non-compliant structures provide a stormwater management design that not only addresses the proposed increases in impervious area, but also address the current exceedance over the maximum impervious area. The proposed revisions to the ordinance would result in reduced stormwater peak flows from these “grandfathered” properties if they are re-developed. Add the following to Section 113-228(e)/Section 5(e).

   For existing properties that exceed the maximum impervious area (maximum building area plus an additional five (5) percent of the parcel area), making improvements to the property that
would further increase the impervious area, excluding minor alterations, will require a stormwater management design to mitigate the increased stormwater runoff. The maximum building area plus an additional five (5) percent of the parcel area in accordance with the zoning ordinance will be the basis for quantifying the stormwater runoff to mitigate in the design. The design shall be supported by a written engineering analysis verifying the adequacy of the stormwater management design for the property. The design shall comply with the minimum requirements set forth in this ordinance.

**GOAL: Incentivize the use of LID/GIPs to manage site stormwater.**

2. Low Impact Development (LID) and Green Infrastructure (GI or GIP) practices provide a means to not only attenuate stormwater flows but reduce the volume of stormwater though infiltration, evaporation, and vegetation uptake. In addition, landscaping is a major component in LID/GI practices which lends to a more aesthetic quality than traditional stormwater management controls. Because of the community outreach and the City’s desire to incentivize the use of LID/GIPs, we propose the following to be added to Section 113-229(d)/Section 6(d).

Any site with a stormwater management design that utilizes LID/GIPs to capture and manage the runoff from ninety (95) percent or greater of the proposed impervious area would receive a no fee permit allowance as approved by the City Council. The stormwater management design must still comply with the minimum requirements set forth in this ordinance.

3. The current detention ordinance does not reference low impact development (LID)/green infrastructure (GI) practices. We recommend changing references to landscaping in detention ordinance to low impact development (LID)/green infrastructure (GI) practices. Modify Section 113-228(e)/Section 5(e) of the Detention Ordinance as follows (changes shown in bold):

**(e) Single lot development.** Development of single lots shall be in accord with applicable provisions of the zoning ordinance, provided that the maximum impervious area shall be limited to the maximum building area permitted for the use in question by the zoning ordinance, plus an additional five percent of the parcel on which the project is to be constructed. For purposes of this article, the term “impervious area” means the developed area of the lot, including house and appurtenant structures, as well as surfaces that do not allow the free passage of water through the material into the ground. The term “impervious area” shall include, without limitation, sidewalks, driveways, parking areas, decks, and patios, unless such surfaces are constructed of materials that allow passage of water into the ground at a rate equal to the predeveloped condition. The percentage of building and impervious areas shall not exceed that allowed by this article unless an approved method of stormwater detention or low impact development (LID)/green infrastructure (GI) practices are used to mitigate increases in stormwater runoff. If stormwater detention is used, the design shall comply with the minimum requirements set forth in this article. The LID or GI measure design shall comply with the design standards in the “Low Impact Development Handbook for the State of Alabama”, Alabama Department of Environmental Management et al. and comply with the minimum requirements set forth in this ordinance. Design of LID or GI measures shall be performed by a registered architect, landscape architect, or engineer, and shall include plans, details, and calculations demonstrating compliance with the requirements of this article.
Further Recommendations from Cahaba River Keepers and City Staff:

**GOAL:** to create a phase-based approach of site development area.
Modify Section 113-228(e)/Section 5(e) of the Detention Ordinance as follows (changes shown in bold): *moved buffer to outside the silt fence and removed LID/Green devices during construction*.

Any new development or re-development shall submit to the city a phased site development plan with a vegetated buffer or Engineered surfaces equal to (10%) or greater of the disturbed area. The vegetated buffer or surface shall prevent soil erosion and filter surface run off prior to leaving the site. The vegetated buffer is to be located, where practical, outside of the perimeter of erosion and sediment control best management practices for the site. The turbidity of the site stormwater discharges shall not cause or contribute to a substantial visible contrast with the natural appearance of the receiving water.
ORDINANCE NO. 2091

AN ORDINANCE AMENDING ARTICLE III OF THE CITY CODE TO REDUCE ADVERSE STORMWATER IMPACTS IN THE CITY OF MOUNTAIN BROOK

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

Section 1. Section 113-224 of the City Code is hereby amended as follows:

"Sec. 113-224. - Scope of the article and definitions.

(c) Definitions:

(1) Maximum Building Area – The largest portion of the lot or parcel that can be occupied by the main building, including porches, carports, accessory buildings, and other structures as permitted for the use in question by the zoning ordinance.

(2) Maximum Impervious Area – The maximum building area permitted for the use in question by the zoning ordinance, plus an additional five percent of the parcel on which the project is to be constructed. The term "impervious area" means the developed area of the lot, including house and accessory structures, as well as surfaces that do not allow the free passage of water through the material into the ground. The term "impervious area" includes sidewalks, driveways, parking areas, decks, and patios, unless such surfaces are constructed of materials that allow passage of water into the ground at a rate equal to the predeveloped condition."

Section 2. Section 113-226 of the City Code is hereby amended as follows:

"Sec. 113-226. - General stormwater detention and design objectives and criteria.

(b) The goal of stormwater management design shall be to mimic the pre-development hydrology of the site. Post-development stormwater peak flows for two-year through 100-year, 24-hour storms shall be less than or equal to pre-development values. The engineering analysis shall assume that land is fully developed in accordance with the city's comprehensive land use plan. Engineering data supporting differential runoff and detention volume calculations, as well as the adequacy of detention, discharge, and control structures, shall be submitted to the city for review. A description of the method to be used in maintaining components of the stormwater management system shall also be submitted."

Section 3. Section 113-227 of the City Code is hereby amended as follows:

"Sec. 113-227. - Sec. 113-227. - Detention facilities.

j. Verification that the site runoff will not contribute to erosion and scour of downstream receiving channel for the 2-year, 24-hour storm event. This includes a detailed description of erosion prevention measures, such as energy dissipation and velocity control devices to be implemented and velocity calculations at each site outfall for the 2-year, 24-hour design storm."
Section 4. Section 113-228 of the City Code is hereby amended as follows:

"Sec. 113-228. - Requirements applicable to particular types of development and detention methods.

(e) Single lot development. Development of single lots shall be in accord with applicable provisions of the zoning ordinance, provided that the maximum impervious area shall be limited to the maximum building area permitted for the use in question by the zoning ordinance, plus an additional five percent of the parcel on which the project is to be constructed. For purposes of this article, the term "impervious area" means the developed area of the lot, including house and appurtenant structures, as well as surfaces that do not allow the free passage of water through the material into the ground. The term "impervious area" shall include, without limitation, sidewalks, driveways, parking areas, decks, and patios, unless such surfaces are constructed of materials that allow passage of water into the ground at a rate equal to the predeveloped condition. The percentage of building and impervious areas shall not exceed that allowed by this article unless an approved method of stormwater detention or low impact development (LID)/green infrastructure (GI) practices are used to mitigate increases in stormwater runoff. If stormwater detention is used, the design shall comply with the minimum requirements set forth in this article. The LID or GI measure design shall comply with the design standards in the "Low Impact Development Handbook for the State of Alabama", Alabama Department of Environmental Management et al. and comply with the minimum requirements set forth in this ordinance. Design of LID or GI measures shall be performed by a registered architect, landscape architect, or engineer, and shall include plans, details, and calculations demonstrating compliance with the requirements of this article. Developments on steep lots (slopes 12% or greater in the development or re-development area) are required to provide a stormwater management design to mitigate the increased stormwater runoff. The design shall be supported by a written engineering analysis verifying the adequacy of the stormwater management design for the property. The design shall comply with the minimum requirements set forth in this ordinance. In addition, the stormwater management design shall ensure that the site runoff will not contribute to erosion and scour of the downstream receiving water for the 2-year, 24-hour storm event. For existing properties that exceed the maximum impervious area (maximum building area plus an additional five (5) percent of the parcel area), making improvements to the property that would further increase the impervious area, excluding minor alterations, will require a stormwater management design to mitigate the increased stormwater runoff. The maximum building area plus an additional five (5) percent of the parcel area in accordance with the zoning ordinance will be the basis for quantifying the stormwater runoff to mitigate in the design. The design shall be supported by a written engineering analysis verifying the adequacy of the stormwater management design for the property. The design shall comply with the minimum requirements set forth in this ordinance. Any new development or re-development shall submit to the city a phased site development plan with a vegetated buffer or Engineered surfaces equal to (10%) or greater of the disturbed area. The vegetated buffer or surface shall prevent soil erosion and filter surface run off prior to leaving the site. The vegetated buffer is to be located, where practical, outside of the perimeter of erosion and sediment control best management practices for the site. The turbidity of the site stormwater discharges shall not cause or contribute to a substantial visible contrast with the natural appearance of the receiving water.

Section 5. Section 113-229 of the City Code is hereby amended as follows:

"Sec. 113-229. - Application and appeal process.

(c) Predesign conference.
(1) The applicant and the consulting engineer are required to contact the city for a predesign conference at the conceptual stage of a project in order to clarify the application of this article to the development, address any questions, and minimize cost, delay, and inconvenience to the developer.

(d) Review fees. Each application for a stormwater detention permit shall include a nonrefundable fee as set forth in chapter 14. Should the actual, reasonable cost to the city for engineering or other technical review of the application exceed the amount set forth in chapter 14, the additional cost shall be paid by the applicant prior to issuance of the detention permit. Any site with a stormwater management design that utilizes LID/GIPs to capture and manage the runoff from ninety-five (95) percent or greater of the proposed impervious area will receive a reduced permit fee allowance of fifty (50) percent. The stormwater management design must still comply with the minimum requirements set forth in this ordinance.

Section 6. This ordinance is cumulative in nature and is in addition to any power and authority which the City of Mountain Brook may have under any other ordinance or law.

Section 7. If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect, notwithstanding such holding.

Section 8. This ordinance shall become effective immediately upon adoption and publication as approved by law.

ADOPTED: This 9th day of November, 2020.

__________________________________________
Council President

APPROVED: This 9th day of November, 2020.

__________________________________________
Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of an ordinance adopted by the City Council of the City of Mountain Brook, Alabama, as its meeting held on November 9, 2020, as same appears in the minutes of record of said meeting, and published by posting copies thereof on November 10, 2020, at the following public places, which copies remained posted for five (5) days as required by law.

City Hall, 56 Church Street
Gilchrist Pharmacy, 2850 Cahaba Road
Overton Park, 3020 Overton Road
Cahaba River Walk, 3503 Overton Road

__________________________________________
City Clerk
ORDINANCE NO. 2092

AN ORDINANCE AMENDING THE CITY CODE ARTICLE II - SOIL EROSION AND SEDIMENTATION CONTROL, BONDS AND LETTER OF CREDIT AND CHAPTER 14 – FEES, WITH REGARD TO ADVERSE STORMWATER IMPACTS IN THE CITY OF MOUNTAIN BROOK

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

Section 1. Section 113-119 of the City Code is hereby amended as follows:

"Sec. 113-119. - City to determine type of security; additional specific provisions.

Each control plan must be accompanied by a letter of credit, a surety bond or a cash bond, with the city having the right to determine which type of security shall be furnished. A letter of credit, a surety bond or a cash bond (a letter of credit, a surety bond and a cash bond shall be herein collectively referred to as "security") shall be furnished to the city in accordance with the following provisions:

(1) The official shall require a letter of credit, a surety bond or a cash bond in such amount as specified herein to ensure that the work, if not completed or if not performed in accordance with the permit issued under the provisions of this division, will be corrected to eliminate hazards or nuisances or completed in accordance with such permit. In lieu of a letter of credit or a surety bond required by the city, the owner may file a cash bond with the city in an amount equal to that which would be required in the letter of credit or the surety bond.

(2) The security shall contain, or have attached to it as an exhibit, a legal description of the site. The security shall remain in effect until it has been released, in writing, by the official, in accordance with the provisions of section 113-120. Security with a specific expiration date shall not be acceptable.

(3) The security for clearing operations only shall be in the amount of $1,000.00 per acre for each acre, or fraction of an acre, disturbed or affected by such operations.

(4) The security for earthwork or clearing and earthwork operations shall be in the amount of $2,000.00 per acre for each acre, or fraction of an acre, disturbed or affected by such operations.

(5) Security equal to double the amounts required in subsections (3) and (4) of this section, shall be required where clearing or earthwork is performed in areas designated as floodways, floodplains or areas susceptible to landslides.

(6) Each letter of credit must be issued by a bank that has its principal office in the county and which is satisfactory to the city.

(7) Each surety bond must be issued by a surety company that is qualified to do business in the state and which is satisfactory to the city."

Section 2. Chapter 14 of the City Code is hereby amended as follows:

"Chapter 14 - Fees."
The fees to be paid to the city for the service, license or permit indicated shall be as follows. The presence of a fee in this section without a requirement elsewhere in this Code that the fee be paid shall be construed as a requirement that the fee be paid.

<table>
<thead>
<tr>
<th>Section of Code</th>
<th>Description</th>
<th>Fee (in dollars)</th>
</tr>
</thead>
<tbody>
<tr>
<td>109-2(l)</td>
<td>Reinspection fee(s)</td>
<td>100.</td>
</tr>
<tr>
<td></td>
<td>2nd failure/visit</td>
<td>200.</td>
</tr>
<tr>
<td></td>
<td>3rd or other-see suspended or revocation</td>
<td>500.</td>
</tr>
</tbody>
</table>

CHAPTER 109
BUILDINGS AND BUILDING REGULATIONS

Section 3. This ordinance is cumulative in nature and is in addition to any power and authority which the City of Mountain Brook may have under any other ordinance or law.

Section 4. If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect, notwithstanding such holding.

Section 5. This ordinance shall become effective immediately upon adoption and publication as approved by law.

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Council President

APPROVED: This 9th day of November, 2020.

Mayor

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