

ORDINANCE NO.: 2134-24

**AN ORDINANCE TO FIX AND COLLECT REASONABLE FEES FOR STORMWATER
MANAGEMENT PURSUANT TO SECTION 11-89C-9 OF THE CODE OF ALABAMA
(1975).**

WHEREAS, the City Council (the "City Council") of the City of Prichard, Alabama (the "City") desires adopt regulations for the use and administration of its municipal separate stormwater sewer system, pursuant to Section 11-89C-9, Code of Alabama (1975); and

WHEREAS, the City Council desires to engage the Revenue Commissioner of Mobile County to collect annual fees concerning the municipal separate stormwater sewer system; and

WHEREAS, this Ordinance accompanies a separate ordinance providing for the garbage and trash collection services, regulations, and fees, and the levy and collection thereof, amending Ordinance 1975 that previously combined garbage, trash, and stormwater fees into one fee.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF PRICHARD, ALABAMA, AS FOLLOWS:**

PART I. GENERAL PROVISIONS.

SECTION 1. PURPOSE. It is the purpose of this Ordinance to control stormwater drainage facilities within the corporate limits of the City of Prichard in order to promote the public health, safety, and general welfare, and to comply with applicable law.

SECTION 2. JURISDICTION. The regulations and requirements set forth in this Ordinance shall apply to all property within the corporate limits and police jurisdiction of the City of Prichard.

SECTION 3. ABROGATION AND GREATER RESTRICTIONS. This Ordinance is not intended to repeal, abrogate, or impair any existing ordinance, easements, covenants, or deed restrictions. However, where this Ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION 4. INTERPRETATION. In their interpretation and application of this Ordinance, all provisions shall be (a) considered as minimum requirements, (b) liberally construed in favor of the governing body, and (3) deemed to neither limit nor repeal any other powers granted by state statutes or city ordinances.

SECTION 5. STATUTORY AUTHORIZATION. The Legislature of the State of Alabama, in the Code of Alabama (1975), authorized local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

SECTION 6. SEVERABILITY. The provisions of this Ordinance are severable. If any part of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, that declaration shall not effect the part or parts that remain.

SECTION 7. CONFLICTS. All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 8. RIGHTS UNAFFECTED. Any suit or proceeding impending in any court, or any ~~rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under~~ any act or ordinance hereby repealed as cited in this Ordinance shall be affected, nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this Ordinance.

SECTION 9. EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its adoption and publication as required by law.

SECTION 10. DEFINITIONS.

- (a) "*ADEM*" means the Alabama Department of Environmental Management or its successor agency.
- (b) "*Agricultural Land*" means any real property classified or assessed as agricultural or forest land for property tax purposes.
- (c) "*City*" means the City of Prichard, Alabama.
- (d) "*City Council*" means the City Council of the City of Prichard, Alabama.
- (e) "*Commercial Property*" means any real property that is not residential property, as defined in this Section, or has not been specifically exempted from the fee provisions set out in Section 4 herein.
- (f) "*Commercial Space*" means the area of a parcel of commercial property measured in square feet, according to the property tax assessment records of the Revenue Commissioner of Mobile County.
- (g) "*Construction Debris*" shall mean waste building materials resulting from construction, remodeling, repair, or demolition operations.
- (h) "*Contractor*" means a person or his designee who is responsible for construction activities.
- (i) "*Greenfield*" means any real property not previously developed including unimproved commercial lots.
- (j) "*Hazardous Waste*" shall mean waste, in any amount, which is defined, characterized, or designated as hazardous by the United States Environmental Protection Agency or appropriate State agency by or pursuant to Federal or State law, or waste, in any amount, which is regulated under Federal or State law. For the purpose of this Ordinance, the term Hazardous Waste shall also include tires, motor oil, gasoline, paint, and paint cans. In addition, Hazardous Waste means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present

or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

- (k) "*Illicit Discharge*" or "*Illegal Discharge*" means any discharge to a municipal separate stormwater sewer system that is not composed entirely of stormwater.
- (l) "*Illicit Connection*" means any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
- (m) "*Loose Trash*" shall mean shrub and brush trimmings, yard trimmings, newspapers, magazines, leaves, cartons, plastics, rags, furniture pieces or fragments, and like items.
- (n) "*Manufactured home*" means a building, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for one hundred eighty (180) consecutive days or longer and intended to be improved property.
- (o) "*Municipal Separate Stormwater Sewer System*" means a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains:
- (i) Owned or operated by the City;
 - (ii) Designed or used for collecting or conveying stormwater;
 - (iii) Which is not a combined sewer; and
 - (iv) Which is not part of a publicly owned treatment works as defined in 40 C.F.R. § 122.2.
- (p) "*Non-residential*" means, but is not limited to; small business concerns, churches, schools, farm buildings (including grain bins and silos), pool houses, clubhouses, recreational buildings, mercantile structures, agricultural and industrial structures, warehouses, and hotels and motels with normal room rentals for less than six (6) months duration.
- (q) "*Non-stormwater discharge*" means any discharge to the storm drain system that is not composed entirely of stormwater.
- (r) "*Owner*" means the legal or beneficial owner of land, including those holding the right to purchase or lease the land. Owner also means the person or persons to whom the Revenue Commissioner of Mobile County assesses real property in the city limits.

- (s) "*Person*" shall mean and include a natural person, firm, corporation, partnership, association, trustee, executor, administrator, or other local entity, whether singular or plural, masculine or feminine, as the context may require.
- (t) "*Pollutant*" means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, and accumulations thereof, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.
- (u) "*Premises*" means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- (v) "*Residential Property*" means any single family owner occupied residential property, historic buildings, or sites classified or assessed as Class III property by the Revenue Commissioner of Mobile County.
- (w) "*Solid Waste*" shall mean the following:
- (i) *Garbage*: All putrescible waste including dead animals of less than 10 pounds in weight, except those slaughtered for human consumption; every accumulation of waste (animal, vegetable, and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruit, grains or other animal or vegetable matter (including, but not by way of limitation, used in in cans and other food containers); and all putrescible or easily decomposable waste, animal, or vegetable matter that is likely to attract flies or rodents, generated by an occupant of a residential unit; except, however, in all cases any matter included in the definition of Bulky Wastes, Construction Debris, Hazardous Waste, Trash, or Stable Matter; and
 - (ii) *Trash*: All non-putrescible waste including wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, chips, shavings, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp and other products such as are used for packaging or wrapping crockery and glass, ashes, cinders, floor sweepings, glass mineral or metallic substances, and any and all other waste materials not included in the definition of Garbage or Hazardous Waste.
- (x) "*Structure*" means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank.
- (y) "*Waters of the State*" shall have the same meaning set out in 40 C.F.R. § 122.2.

- (z) "*Watercourse*" means any flowing body of water including a river, creek, stream, or a branch.

PART II. ILLICIT DISCHARGE AND CONNECTION

SECTION 11. PROHIBITION OF ILLICIT DISCHARGES.

- (a) Prohibition. Unless otherwise excepted herein, no person shall spill, dump, throw, drain, make, cause to be made, or continue to be made; allow otherwise under such person's control to spill, dump, throw, drain, make, cause to be made, or continue to be made; or otherwise discharge and/or dispose of into the municipal separate stormwater sewer system or watercourses any pollutants, other than stormwater. This prohibition includes the improper disposal of cooking grease, motor oils, foliage, debris, and any other product improperly disposed of into the municipal separate stormwater sewer system.
- (b) Exceptions. Discharges from the following activities will not be considered a source of pollutants to the municipal separate stormwater sewer system, water of the state or to waters of the United States when properly managed to ensure that no potential pollutants are present, and therefore shall not be considered illicit discharges unless determined to cause a violation of applicable law or this Ordinance:
- (i) Water line flushing;
 - (ii) Landscape irrigation (not consisting of treated, or untreated wastewater unless authorized by ADEM);
 - (iii) Diverted stream flows;
 - (iv) Uncontaminated ground water infiltration;
 - (v) Uncontaminated pumped ground water;
 - (vi) Discharges from potable water sources;
 - (vii) Foundation and footed drains;
 - (viii) Air conditioning drains;
 - (ix) Irrigation water (not consisting of treated, or untreated wastewater unless authorized by ADEM);
 - (x) Rising ground water;
 - (xi) Springs;
 - (xii) Water from crawl space pumps;
 - (xiii) Lawn watering runoff;
 - (xiv) Individual residential car washing, to include charitable car washes;
 - (xv) Residual street wash water;
 - (xvi) Discharges or flows from firefighting activities (including fire hydrant flushing);
 - (xvii) Flows from riparian habitats and wetlands;
 - (xviii) Dechlorinated swimming pool discharges; and
 - (xix) Wash water (without the use of chemicals/soaps/solvents) from the cleaning of the exterior of residential or commercial buildings, including gutters, sidewalks, and driveways, provided that the discharge does not pose an environmental or health threat. Discharges associated with dye testing are also allowable discharges under the terms of this section, but this activity requires written notification to and

approval in writing by the city engineer at least fourteen (14) days prior to the date of the test.

SECTION 12. PROHIBITION OF ILLICIT CONNECTIONS.

- (a) Prohibition. The construction, use, maintenance, or continued existence of illicit connections to the municipal separate stormwater sewer system is prohibited.
- (b) Past Connections Prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (c) A person is considered to be in violation of this Section if the person connects a line conveying sewage to the municipal system or allows such an illicit connection to continue.
- (d) Improper connections in violation of this Section must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or a sanitary sewer system upon approval of the City.
- (e) Watercourse Protection. No person owning a premises or leasing a premises through which a watercourse passes may throw, deposit, leave, maintain, keep or permit to be thrown, deposited, left, maintained or kept in any part of a watercourse any solid waste, construction debris, loose trash, hazardous waste, other debris, excessive vegetation, pollutants, or other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse. A person shall keep and maintain that part of the watercourse on the premises owned or leased by such person free from any such solid waste, construction debris, loose trash, hazardous waste, other debris, excessive vegetation, pollutants, and other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse. A person shall only be liable under this Section for solid waste, construction debris, loose trash, hazardous waste, other debris, excessive vegetation, pollutants, and other obstacles that originate from the premises owned or leased by such person. In addition, the owner or lessee of a premises shall maintain existing privately-owned structures within or adjacent to a watercourse on such premises, so that such structures will not become a hazard to the use, function or physical integrity of the watercourse.

SECTION 13. VIOLATIONS AND PENALTIES.

- (a) Violations. It shall be unlawful and a misdemeanor for any person to:
 - (i) Violate any provision of this Ordinance; or
 - (ii) Fail or refuse to comply with any lawful order or notice to abate issued by the City.
- (b) Penalties. Any person violating any provision of this Ordinance by causing an illicit discharge shall, upon being found guilty, be fined as follows:
 - (i) Residential or individual violators shall be assessed a fine of \$50.00 per day.
 - (ii) Commercial violators shall be assessed a fine of \$200.00 per day.
 - (iii) Said fines under this Section shall toll beginning on the first day of issuance of a citation by either the City of Prichard Environmental Officers, the Storm Water

Management Officer, a member of the Prichard Police Department, or such other person designed by the Mayor of the City of Prichard with the power and authority to enforce these provisions.

- (iv) After 10 days violators who have failed to come into compliance shall be referred over to the Municipal Court where additional fines and penalties may be assessed up to and including imprisonment, not to exceed six (6) months.

PART III. LEVY AND COLLECTION OF FEES

SECTION 14. FINDINGS.

- (a) The City maintains a municipal separate stormwater sewer system in accordance with applicable law.
- (b) The City incurs substantial expenses to comply with applicable stormwater laws and in the administration of the municipal separate stormwater sewer system.
- (c) The Alabama state legislature recognized that the implementation of efficient and effective stormwater programs promotes the public interest and that counties and municipalities require funding to implement and enforce their stormwater management programs, pursuant to Sections 11-89-C-1, et seq. of the Code of Alabama (1975).
- (d) Section 11-89C-9 of the Code of Alabama (1975) authorized governing bodies of municipalities in the State of Alabama with stormwater systems to levy a stormwater fee, charge, or assessment in accordance with the terms and conditions set out therein.
- (e) The Council finds and determines that it is in the public interest to establish a stormwater fee as authorized by Section 11-89C-9(d) of the Code of Alabama (1975).

SECTION 15. LEVY.

- (a) Residential Property. There is hereby levied pursuant to Ala. Code § 11-89C-9 an annual assessment in the amount of \$10.00 per year from or against the owners of residential property in the city limits.
- (b) Commercial Property. There is hereby levied pursuant to Ala. Code § 11-89C-9 an annual assessment in the amount of \$0.005 per square foot of commercial from or against the owners of commercial property in the city limits of the City, provided, however, that no fee shall exceed \$3,000.00 per year.

SECTION 16. EXEMPTIONS. The following are exempted from the stormwater fees levied under Section 15 herein:

- (a) Lands and/or facilities owned and/or operated by one or more entities under the jurisdiction and supervision of the state public service commission.
- (b) Lands and/or facilities owned and/or operated by any commission non jurisdictional electric supplier, as defined by Ala. Code § 37-4-140, whose service area extends beyond the boundaries of a single municipal or county jurisdiction.
- (c) Greenfields and/or agricultural land.

SECTION 17. EFFECTIVE DATE. The stormwater fee levied hereby shall become effective immediately upon passage of this Ordinance, and shall be added to the affected property tax bills on the October 1 immediately following this effective date.

SECTION 18. COLLECTION.

- (a) By agreement with the Revenue Commissioner of Mobile County, the stormwater fee shall be assessed, collected, and enforced in the same manner as ad valorem taxes, and shall be a lien upon any land to which it may be levied.
- (b) The City shall pay to the Revenue Commissioner of Mobile County a one percent commission on all amounts collected, which commission shall be deposited to the Mobile County general fund.

SECTION 19. APPEAL.

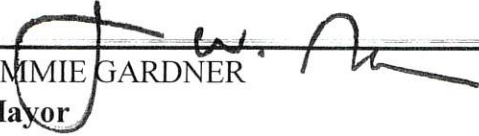
- (a) Initial Appeal. Any person aggrieved by the assessment of a stormwater fee levied hereunder may file a written appeal with the City Clerk within the 60-day period following either notice of the fee or payment of the fee, whichever occurs first.
- (b) Contents. The appeal shall explain in detail the reason(s) the person filing the appeal asserts that the stormwater fee was assessed in error.
- (c) Review. The City Clerk will forward the appeal to the Storm Water Management Officer, which will review the appeal and either:
 - a. Prepare an explanation to the City Clerk of why the stormwater fee was properly assessed; or
 - b. Advise the City Clerk that the fee is due to be changed or rescinded and any amount paid reduced or refunded.
- (d) Communication. The City Clerk shall communicate the decision of the Storm Water Management Officer to the aggrieved person.
- (e) Appeal to City Council. Should any person be aggrieved by a decision of the engineering department, such person may appeal that decision by filing written notice of appeal with the City Clerk's office within 15 days from the date of such decision, and the City Clerk shall, within 15 days after the filing of such notice of appeal, send the applicable record to the Council, which shall, within 15 days after receipt of such transcript, hold a hearing on said appeal. The appeal shall be determined solely on the question of whether the City, in assessing the stormwater fee, acted beyond the limits of its power or abused its discretion.

ADOPTED this the 16th day of DECEMBER, 2024.



GEORGE E. McCALL, JR.
Council President

APPROVED this the th 17 day of December, 2024.


JIMMIE GARDNER
Mayor

ATTEST this the 17th day of December, 2024.


FRANK McMILLION
Assistant City Clerk

B. Ordinances No 2134-24 An Ordinance to Fix and Collect Reasonable FEEs for Stormwater Management Pursuant to Section 11-898c-9 of The Code of Alabama

Council President - I want to make a motion to introduce Ordinance 2134-24

Council Edwards – Second

Council President McCall - it's been properly motioned and second cast your vote,

Council Annie Williams - Yes

Council Stephanie Johnson Norwood - Yes

Council Derrick Griffin - Absent

Council Ossia Edwards – Yes

Council President George E. McCall - Yes

All favored, none opposed, motion carried by unanimous vote

Council Norwood - I make a motion to accept the ordinance. Number 2133 -24

Council Edwards – Second

Council President McCall - it's been properly motioned and second cast your vote,

Council Annie Williams - Yes

Council Stephanie Johnson Norwood - Yes

Council Derrick Griffin - Absent

Council Ossia Edwards – Yes

Council President George E. McCall - Yes

All favored, none opposed, motion carried by unanimous vote

13. MAYOR AND MAYOR'S STAFF REPORT – No Report

14. PUBLIC PARTICIPATION AND PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS TO THE COUNCIL.

- **Dominick N. Stratas**- Applicant for 010 – Lounge Retail Liquor- Class I. Location 127 E. Lovejoy Loop Prichard, Alabama 36610

Council Edwards - Motion to table and place back on the Agenda January 9th

Council Norwood– Second

Council President McCall - it's been properly motioned and second cast your vote,

Council Annie Williams - Yes

Council Stephanie Johnson Norwood - Yes

Council Derrick Griffin - Absent

Council Ossia Edwards – Yes