

ORDINANCE NO. A-240

ORDINANCE FOR EROSION AND SEDIMENT CONTROL

BE IT ORDAINED by the City Council of the City of Tusculmbia in the State of Alabama, as follows:

Section I. Introduction/Purpose.

During the construction process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches and the dredging of lakes. In addition, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat.

As a result, the purpose of this local regulation is to safeguard persons, protect property, and prevent damage to the environment in the City of Tusculmbia. This ordinance will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in the City of Tusculmbia.

Section II. Definitions

Certified Contractor

A person who has received training and is licensed by ADEM to inspect and maintain erosion and sediment control practices.

Clearing

Any activity that removes the vegetative surface cover.

Drainage Way

Any channel that conveys surface runoff throughout the site.

Erosion Control

A measure that prevents erosion.

Erosion and Sediment Control Plan

A set of plans prepared by or under the direction of a licensed professional engineer indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

Grading

Excavation or fill of material, including the resulting conditions thereof.

Perimeter Control

A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

Phasing

Clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

Sediment Control

Measures that prevent eroded sediment from leaving the site.

Site

A parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

Site Development Permit

A permit issued by the municipality for the construction or alteration of ground surface. Permitted BMP includes improvements and structures for the control of erosion, runoff, and grading.

Stabilization

The use of practices that prevent exposed soil from eroding.

Start of Construction

The first land-disturbing activity associated with a development, including land preparation such as clearing, grading, and filling; installation of streets and walkways;

excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

Watercourse

Any body of water, including, but not limited to lakes, ponds, rivers, streams, and bodies of water delineated by the City of Tuscumbia.

Waterway

A channel that directs surface runoff to a watercourse or to the public storm drain.

Section III. Permits.

- A. No person shall be granted a site development permit for land-disturbing activity that would require the uncovering of *1 acre or more* without the approval of an Erosion and Sediment Control Plan by ADEM.
- B. No site development permit is required for the following activities:
 - (1) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
 - (2) Existing nursery and agricultural operations conducted as a permitted main or accessory use.
- C. Each application shall bear the name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm.
- D. Each application shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the Erosion and Sediment Control Plan and that a certified contractor shall provide inspection when construction or grading activity takes place.
- E. The applicant will be required to file with the City of Tuscumbia a faithful performance bond, letter of credit, or other improvement security in an amount deemed sufficient by the city to cover all costs of improvements, landscaping, maintenance of improvements for such period as specified by the City of Tuscumbia and engineering and inspection costs to cover the cost of failure or repair of improvements installed on the site.

Section IV. Review and Approval.

- A. ADEM will review each application for a site development permit to determine its conformance with the provisions of this regulation. ADEM shall, in writing:
- (1) Approve the permit application;
 - (2) Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or
 - (3) Disapprove the permit application, indicating the reason(s) and procedure for submitting a revised application and/or submission.
- B. Failure of the ADEM to act on an original or revised application within 30 days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by agreement between the applicant and ADEM. Pending preparation and approval of a revised plan, development activities shall be allowed to proceed in accordance with conditions established by ADEM.

Section V. Erosion and Sediment Control Plan

- A. The Erosion and Sediment Control Plan shall include the following:
- (1) A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
 - (2) All erosion and sediment control measures necessary to meet the objectives of this local regulation throughout all phases of construction and after completion of development of the site. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.
 - (3) Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.

- (4) Provisions for maintenance of control facilities, including easements and estimates of the cost of maintenance.
- B. Modifications to the plan shall be processed as approved or disapproved in the same manner as Section IV of this regulation, or modifications may be authorized by ADEM by written authorization to the permittee, and shall include:
- (1) Major amendments of the erosion and sediment control plan submitted to ADEM.
 - (2) Field modifications of a minor nature.

Section VI. Design Requirements.

- A. Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the most recent version of the city's stormwater pollution prevention plan (SWPPP), and shall be adequate to prevent transportation of sediment from the site to the satisfaction of ADEM. Cut and fill slopes shall be *no greater than 2:1*, except as approved by ADEM to meet other community or environmental objectives.
- B. Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when in compliance with all other chapters of this Code. Clearing techniques that retain natural vegetation and drainage patterns, as described in the SWPPP, shall be used to the satisfaction of ADEM.
- C. Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.
- D. Phasing shall be required on all sites disturbing greater than 30 acres, with the size of each phase to be established at plan review and as approved by ADEM.
- E. Erosion control requirements shall include the following:
- (1) Soil stabilization shall be completed within *five days* of clearing or inactivity in construction.
 - (2) If seeding or another vegetative erosion control method is used, it shall become established within *two weeks* or ADEM may require the site to be reseeded or a non-vegetative option employed.
 - (3) Special techniques that meet the design criteria outlined in the SWPPP on

steep slopes or in drainage ways shall be used to ensure stabilization.

- (4) Soil stockpiles must be stabilized or covered at the end of each workday. Silt fence may be used. Silt basins may also be used.
- (5) The entire site must be stabilized, using a heavy mulch layer or another method that does not require germination to control erosion, at the close of the construction season.
- (6) Techniques shall be employed to prevent the blowing of dust or sediment from the site.
- (7) Techniques that divert upland runoff past disturbed slopes shall be employed.

F. Sediment controls requirements shall include:

- (1) Settling basins, sediment traps, or tanks and perimeter controls.
- (2) Settling basins that are designed in a manner that allows adaptation to provide long term stormwater management, if required by ADEM.
- (3) Protection for adjacent properties by the use of a vegetated buffer strip in combination with perimeter controls. The buffer strip shall be used only if required by the City Engineer.

G. Waterway and watercourse protection requirements shall include:

- (1) A temporary stream crossing installed and approved by the Army Corp of Engineers if a wet watercourse will be crossed regularly during construction.
- (2) Stabilization of the watercourse channel before, during, and after any in-channel work.
- (3) All on-site stormwater conveyance channels designed according to the criteria outlined in the SWPPP.
- (4) Stabilization adequate to prevent erosion located at the outlets of all pipes and paved channels.

- H. Construction site access requirements shall include:
- (1) A temporary access road provided at all sites.
 - (2) Other measures required by ADEM in order to ensure that sediment is not tracked onto public streets by construction vehicles or washed into storm drains.

Section VII. Inspection.

- A. ADEM or designated agent shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the Erosion and Sediment Control Plan as approved. Plans for grading, stripping, excavating, and filling work bearing the stamp of approval of the City Engineer shall be maintained at the site during the progress of the work. To obtain inspections, the permittee shall notify the City Engineer at least two working days before the following:
- (1) Start of construction.
 - (2) Installation of sediment and erosion measures.
 - (3) Completion of site clearing.
 - (4) Completion of rough grading.
 - (5) Completion of final grading.
 - (6) Close of the construction season.
 - (7) Completion of final landscaping.
- B. The permittee or his/her agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved Erosion and Sediment Control Plan(s). The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be documented in written form and submitted to ADEM at the time interval specified in the approved permit.
- C. ADEM or its designated agent shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports.

Section VIII. Enforcement.

- A. Stop-Work Order; Revocation of Permit

In the event that any person holding a site development permit pursuant to this ordinance violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons

residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, ADEM may suspend or revoke the site development permit.

B. Violation and Penalties

No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this ordinance. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this ordinance is committed, continued, or permitted, shall constitute a separate offense. Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine of not more than \$1,000.00 for each offense. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this ordinance shall be required to bear the expense of such restoration.

Section IX. Severability Clause.

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.

This Ordinance shall become effective upon its approval by the City Council and upon its otherwise becoming law, and its publication as provided by law.

PASSED and ADOPTED this the 24th day of February, 2003.

Waide Gann
WAIDE GANN, MAYOR

ATTEST:

Flora Hanback
FLORA HANBACK
CITY CLERK

CERTIFICATION

I, Flora Hanback, City Clerk for the City of Tuscumbia, Alabama, hereby certify that the foregoing ordinance was duly and properly adopted at a regular meeting of the City Council of the City of Tuscumbia on the 24th day of February, 2003.

That said Ordinance has been duly and properly published on this the 14th day of March, 2003, by publishing a copy of said Ordinance in the *Colbert County Reporter*.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal of office this the 14th day of March, 2003.

Flora Hanback
Flora Hanback - City Clerk