CITY OF DAPHNE
ORDINANCE NO. 2008-54

AN ORDINANCE REGULATING EROSION AND SEDIMENT CONTROL FOR RESIDENTIAL DWELLING AND OTHER LAND DISTURBANCE WITHIN THE CITY OF DAPHNE

WHEREAS, the City Council of the City of Daphne, Alabama deems it to be in the best interest of public health, safety, general welfare and for the benefit of its citizens to establish regulations for erosion and sedimentation control; and,

WHEREAS, it is in the best interest of the citizens of the City of Daphne and the continued development of the area to implement satisfactory controls for sedimentation and erosion for residential dwellings and other land disturbance within the City of Daphne; and,

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA AS FOLLOWS:

SECTION I: PURPOSE

The intent of this Ordinance is to provide minimum standards to ensure effective storm water management, drainage management, and erosion and sediment control measures for residential dwellings and any other activity that results in more than one thousand (1000) square feet land disturbance within the City of Daphne other than activities that would require the issuance of a site disturbance permit from the Community Development Department and the exceptions for land disturbances as noted in Section III.

SECTION II: DEFINITIONS

For the purposes of this Ordinance, the following words and phrases shall have the meaning respectively ascribed to them by this section unless taken specific exception to elsewhere in this ordinance:

1). ***Best Management Practices*** means a wide range of methods and procedures to control the addition of pollutants in the environment and to effectively control the quality and/or quantity of storm water runoff and which are implemented and maintained in accordance with established industry standards, good engineering practices, and the Alabama Handbook for Erosion Control, Sediment Control, and Storm Water Management on Construction Sites and Urban Areas, (www.swcc.state.al.us).

2). ***Building Inspector*** means a City employee who under general supervision, performs technical review of plans and building permit applications for completeness and general compliance to State regulations, model codes and local ordinances. Conducts field inspections of building construction, reconstruction and alterations at various stages and at completion to assure compliance with approved plans and specifications.

3). ***Clearing*** any activity that removes the vegetative surface cover.

4). ***City*** means the City of Daphne, Alabama.

5). ***Code Enforcement Officer*** means the City employee who carries out the City's code enforcement program whereby individuals in violation of City codes and related regulations are identified, investigated, and corrected utilizing appropriate enforcement measures.

6). ***Community Development Director*** means the City employee who plans, organizes and reviews the activities and operations of the Community Development Department including planning, and community and neighborhood enhancement.

7). ***Contractor*** means a person or his designee who is responsible for construction or any other type of land disturbing activity.

8). ***Erosion*** means the process by which land surface is worn away by the action of wind, water, ice and/or gravity.

9). ***Erosion and Sediment Control Plan*** means a plan for the control of soil erosion and sediment resulting from a land disturbing activity.

10). ***Grading*** excavation or fill of material, including the resulting conditions thereof.

11). ***Land Disturbing Activity*** means any and all activities which results in more than one thousand (1000) square feet of land disturbance and or change to the existing storm water drainage characteristics of land.

12). ***Permittee means*** any person who obtains a Land Disturbance Permit from the City of Daphne Building Department.

13). ***Sedimentation*** means the process by which eroded material is transported and deposited by the action of wind, water, ice and/or gravity.

14). ***Site Containment Inspector*** means the City employee who under general supervision, performs technical review of Best Management Practices Plans, Erosion and Sediment Control Plans and land disturbance permit applications for completeness and general compliance to State regulations, model codes and local ordinances. Conducts field inspections of permitted land disturbance sites, during construction and at completion to assure compliance with approved plans and specifications.

15). ***Stabilize*** means installing structural measures or soil cover to reduce soil erosion by storm water runoff, wind, ice, gravity or mechanical activity.

16). ***Storm Water Management*** means all natural and man-made elements used to convey storm water from the first point of impact within the construction site to a suitable outlet location.

SECTION III: APPLICABILITY EXCEPTIONS

This Ordinance shall apply to residential dwellings and any other land disturbance within the City of Daphne; and, undertaken by any person on any land within the City of Daphne's city limits except for the following:

1). Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.

2). Any land disturbance which requires a Right-of-Way Permit from the Public Works Department of the City of Daphne.

3). Existing nursery, agricultural and silvicultural operations.

4). Any land disturbance activity which has a Site Disturbance Permit from the City of Daphne's Community Development Director or his designee.

SECTION IV: EROSION AND SEDIMENT CONTROL: MINIMUM REQUIREMENTS

1). Best Management Practices shall be required for all land disturbing activities. It shall be the sole responsibility of the contractor/or permittee to promptly implement effective Best Management Practices in accordance with the contractor's land disturbance permit and submitted Construction Best Management Practices Plan prior to commencing the land disturbing activity. The contractor/or permittee shall be solely responsible for ensuring that all Best Management Practices are implemented and maintained for the entire duration of the land disturbing activity. The contractor/or permittee shall also be solely responsible for ensuring that the Best Management Practices are in accordance with established industry standards, good engineering practices, and all standards as set out in the Alabama Handbook for Erosion and Sediment Control, and Storm Water Management on Construction Sites and Urban Areas, (www.swcc.state.al.us).

2). In the event the Best Management Practices are found to be in need of maintenance or improvements, the contractor/or permittee shall commence and implement all necessary maintenance to the Best Management Practices within forty-eight (48) hours of notice or as soon as practical as conditions may allow.

3.) That in addition to implementing all necessary maintenance or improvements to the Best Management Practices Plan, the contractor/or permittee shall remove any offsite sediments resulting from erosion and/or tracking from the permitted site and stabilize any area disturbed during the removal.

4). The contractor and/or permittee shall permanently stabilize any roadside ditches or embankments in right-of-ways to prevent erosion caused by their land disturbing activity.

5). The contractor and/or permittee shall provide the necessary measures to ensure that drainage structures important to overall storm water management and control are not adversely affected by clearing, grading, or any other land disturbing activities.

6). The contractor and/or permittee shall ensure proper implementation, regular inspection and continual maintenance of effective Best Management Practices to protect the physical, chemical and biological integrity of groundwater and surface waters.

7). The contractor and/or permittee shall design, implement and regularly maintain Best Management Practices in order to provide effective treatment of discharges of pollutants in storm water resulting from runoff generated by storm events during the land disturbing activity.

8). The contractor and/or permittee shall permanently stabilize areas that were disturbed during construction of site prior to issuance of Certificate of Occupancy.

SECTION V: CONSTRUCTION SITE SOLID WASTE MANAGEMENT; MINIMUM REQUIREMENTS

The contractor and/or permittee shall ensure proper onsite containment and disposal of all construction site trash, debris and any other solid waste, including concrete and brick mortar, in any way resulting from the land disturbing activity.

SECTION VI: PERMIT APPLICATION REQUIRED

1). A permit for residential dwellings and other land disturbance within the City of Daphne; shall be required. No person, firm, business or corporation shall engage in any land disturbing activity prior to obtaining a land disturbance permit from the City of Daphne's Building Department. For new construction and additions, the land disturbance permit is incorporated into the building permit and the building permit must be obtained prior to land disturbance.

2). A permit shall be issued to either the titled owner of the said real property or the general contractor/or permittee charged with the contractual obligation of the construction activity.

3). A fee of fifty dollars ($50.00) shall be charged and collected by the City of Daphne, Building Department, for the issuance of the land disturbing permit fee.

4). When constructing a residential dwelling, all applications for land disturbing permits shall be accompanied by a Best Management Practices Plan. It is not required that the Best Management Practices Plan be prepared by an engineer, but the plan shall meet all minimum requirements set out in Alabama Handbook for Erosion and Sediment Control, and Storm Water Management on Construction Sites and Urban Areas, (www.swcc.state.al.us).

SECTION VII: ENFORCEMENT

Failure or refusal to implement and maintain Best Management Practices shall be sufficient cause for the City of Daphne, through either a Building Inspector, Site Containment Inspector or Code Enforcement Officer, to issue an order suspending all work on the land disturbing site until satisfactory measures are taken to comply with the city code.

This ordinance may also be subject to enforcement by the issuance of a summons and complaint pursuant to Ordinance No. 2005-55, Establish Penalties and Enforcement for Violation of Municipal Ordinances, and Ordinance No. 1993-02, Summons and Compliant Schedule of Fines, as amended from time to time. That each day constitutes a separate violation of this Ordinance.

SECTION VIII: PENALTIES; INJUNCTIVE RELIEF

Any person found to be in violation of any provision of this ordinance shall be punished by a fine of not less than fifty dollars ($50.00), but not more than five hundred dollars ($500), or imprisonment not to exceed one-hundred and eighty days (180), or both.

In addition to the other remedies so provided herein, the city retains the right to bring an action for injunctive relief to require the payment of damages for, and/or removal from the City or its police jurisdiction, all sediment which has migrated off-site as a result of erosion due to land disturbing activities or has the potential to migrate off-site.

SECTION IX: REPEALER

Ordinance No. 2007-03 is specifically repealed in its entirety and any other ordinances or parts of ordinances conflicting with the provisions of this ordinance is hereby repealed in so far as they conflict.

SECTION X: SEVERABILITY

Should any section or provision of this article be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of any of the remaining provisions of this ordinance.

SECTION XI: EFFECTIVE DATE.

This Ordinance shall take effect and be in force from and after the date of its approval by the City Council of the City of Daphne and publication as required by law.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS 3rd DAY OF November, 2008.

JOHN LAKE
CITY COUNCIL PRESIDENT
Date & Time Signed: 11-6-08 6:00PM

FRED SMALL, MAYOR
Date & Time Signed: 11-7-08 11:40

ATTEST:

DAVID COHEN, CITY CLERK, MMC