

CITY OF DAPHNE ORDINANCE NO. 2007-03

AN ORDINANCE REGULATING EROSION AND SEDIMENT CONTROL FOR RESIDENTIAL DWELLINGS AND NON-COMMERCIAL LAND DISTURBANCE

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 or non-commercial land disturbance activity 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

This ordinance is intended to provide minimum standards to ensure effective storm water management, drainage management, and erosion and sediment control measures for either residential dwellings or any non-commercial land disturbing activity.

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). **City** means the City of Daphne, Alabama
- 3). **City Planner** means the city planner of the City, or his or her designee
- 4). **Contractor** means a person or his designee who is responsible for construction or any other type of land disturbing activity

- 5). **Erosion** means the process by which land surface is worn away by the action of wind, water, ice and/or gravity
- 6). **Erosion and Sediment Control Plan** means a plan for the control of soil erosion and sediment resulting from a land disturbing activity
- 7). **Land Disturbing Activity** means any activity that results in a change to the existing storm water drainage characteristics of land
- 8). **Permittee means** any person who obtains a Land Disturbance Permit
- 9). **Sedimentation** means the process by which eroded material is transported and deposited by the action of wind, water, ice and/or gravity
- 10). **Stabilize** means installing structural measures or soil cover to reduce soil erosion by storm water runoff, wind, ice, gravity or mechanical activity
- 11). **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 non-commercial, land disturbing activity undertaken by any person on any land within the City of Daphne's city limits except for the following:

- 1). Such minor land-disturbing activities as home gardens and individual home landscaping, maintenance, repairs, fences and other related activities which result in minor soil erosion.
- 2). Construction or maintenance of above ground public utilities.
- 3). Residential accessory structures including, but not limited to, outbuildings, sheds, pools, and the like.
- 4). Emergency repairs.
- 5). Agricultural and silvicultural operations.
- 6). Any land disturbance which requires a Right of Way Permit from the Public Works Department of the City of Daphne.

- 7). Any land disturbance activity which has a Land 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 building 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 Control, 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 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 clean up any sedimentation which results from erosion relating to the construction.
- 4). The contractor/or permittee shall stabilize any roadside ditches or embankments in right-of-ways to prevent erosion caused by their land disturbing activity.
- 5). The contractor/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/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/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.

SECTION V: CONSTRUCTION SITE SOLID WASTE MANAGEMENT; MINIMUM REQUIREMENTS

The contractor/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 REQUIRED; APPLICATION

- 1). A permit for any non-commercial or residential dwelling land disturbing activity shall be required. No person, business or corporation shall engage in any land disturbing activity prior to obtaining a land disturbance permit from the City of Daphne. For new construction and remodels, 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 title owner of the 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 for the issuance of the land disturbing permit.
- 4). When constructing a residential single-family 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 the Alabama Handbook for Erosion and Sediment Control.

SECTION VII: ENFORCEMENT

- 1). Failure or refusal to implement and maintain Best Management Practices shall be sufficient cause for the City of Daphne, through either a 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.

- 2). **Penalties:** 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, but not more than five hundred dollars, or imprisonment not to exceed one-hundred and eighty days, or both.
- 3). This ordinance may also be subject to enforcement by the issuance of a summons and complaint pursuant to Ordinance No. 1993-02, as amended from time to time.
- 4.) That each day constitutes a separate violation of this Ordinance.

SECTION VIII: INJUNCTIVE RELIEF

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.

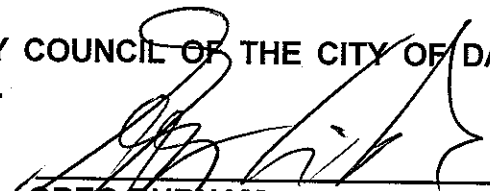
SECTION IX: SEVERABILITY

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.

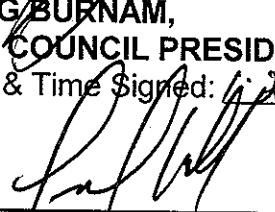
SECTION X: EFFECTIVE DATE.

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.

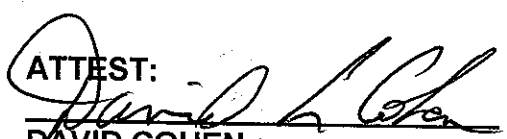
ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS 2nd DAY OF January, 2006.



 GREG BURNAM,
 CITY COUNCIL PRESIDENT
 Date & Time Signed: 1-2-07 8:30 p.m.



 FRED SMALL,
 MAYOR
 Date & Time Signed: 1-3-07 11:37

ATTEST:


 DAVID COHEN,
 CITY CLERK, MMC