

ORDINANCE NO. 2015-38

AN ORDINANCE AMENDING CHAPTER 20 OF THE CODE OF ORDINANCES, CITY OF MADISON, ALABAMA, TO REGULATE EROSION AND SEDIMENT WITHIN THE CORPORATE LIMITS OF THE CITY OF MADISON

WHEREAS, the City of Madison, Alabama, is required under Federal and State regulations to implement a Stormwater Management Plan (SWMP) to address pollutants which may be discharged from the public Municipal Separate Storm Sewer (MS4); and

WHEREAS, soil is highly vulnerable to erosion by wind and water during the construction process and eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species; and

WHEREAS, eroded soil also necessitates repair of sewers and ditches and the dredging of lakes; and

WHEREAS, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat; and

WHEREAS, the purpose of this Ordinance is to safeguard persons, protect property, and prevent damage to the environment in the City of Madison while also promoting 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 Madison;

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

Section 1. That Chapter 20 of the *Code of Ordinances, City of Madison, Alabama*, is hereby amended by the creation and inclusion of the following article:

“ARTICLE VIII. EROSION AND SEDIMENT CONTROL

Sec. 20-440. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section:

Alabama Department of Environmental Management (ADEM) means the state agency which administers all major federal environmental laws, including the Clean Air, Clean Water and Safe Drinking Water Acts and federal solid and hazardous waste laws.

Alabama Handbook for Erosion Control, Sediment Control, and Stormwater Management on Construction Sites and Urban Areas (Handbook), which was adopted for use by the City of Madison

Engineering Department in § 20-421, means the published document which provides guidance for preventing or minimizing the related problems of erosion, sediment, and stormwater on construction sites and eroding urban areas. The *Handbook* provides a basis for developing sound plans and implementing appropriate measures, commonly referred to as Best Management Practices (BMPs).

Authorized Enforcement Agent (Agent) means an agent, whether corporate or individual, which has been designated by the City Engineer as being responsible for enforcement of this article.

Best Management Practices (BMPs) means activities, prohibitions of practices, maintenance procedures, and other management practices implemented to prevent or reduce the discharge of pollutants to waters of the State. BMPs also include treatment systems, operating procedures, and practices to control facility runoff, spillage or leaks, sludge or water disposal, or drainage from raw material storage.

City means the City of Madison, Alabama, a municipal corporation.

City Engineer means the director of the City of Madison Engineering Department or his/her designee.

Clearing means any activity that removes the vegetative surface cover.

Drainageway means any channel that conveys surface runoff throughout the site.

Erosion Control means a measure that prevents erosion.

Erosion and Sediment Control Plan means a set of plans prepared by or under the direction of a Qualified Credentialed Professional indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

Grading means excavation or fill of material, including the resulting conditions thereof.

Land Disturbance Permit means a permit issued by the City of Madison Engineering Department for the construction or alteration of ground improvements and structures for the control of erosion, runoff, and grading.

Municipal Separate Storm Sewer System (MS4) means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under section 208 of the Clean Water Act that discharges to waters of the United States; (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 (POTW) as defined in ADEM Administrative Code 355-6-6.02(nn). See 40 CFR Part 122.26(b)(8).

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

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

Qualified Credentialed Professional (QCP): Any staff member designated by the Director of ADEM or the Director's designee, a Professional Engineer, an Alabama Natural Resources Conservation Service professional designated by the State Conservationist, or a Certified Professional in Erosion and Sediment Control (CPESC). A QCP includes a registered landscape architect, a registered land surveyor, a Professional Geologist, a registered forester, a Registered Environmental Manager as determined by the National Registry of Environmental Professionals (NREP), and a Certified Professional Soil Scientist (CPSSc) as determined by ARCPACS, and other ADEM accepted professional designations, certifications, and/or accredited university programs that can document requirements regarding proven training, relevant experience, and continuing education, that enable recognized individuals to prepare CBMPPs, to make sound professional judgments regarding Alabama NPDES rules, planning, design, implementation, maintenance, and inspection of construction sites, receiving waters, BMPs, remediation/cleanup of accumulated offsite pollutants from the regulated site, and reclamation or effective stormwater quality remediation of construction associated land disturbances, that meet or exceed recognized technical standards and guidelines, and effective industry standard practices. The QCP shall be in good standing with the authority granting the registration or designation.

Sediment Control means measures that prevent eroded sediment from leaving the site.

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

Stabilization means the use of practices that prevent exposed soil from eroding.

Start of Construction means 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.

Stormwater Management Program (SWMP) means a program developed by the City that covers the duration of the National Pollutant Discharge Elimination System (NPDES) Permit and that addresses the BMPs, control techniques and systems, design and engineering methods, public participation and education, monitoring, and other appropriate provisions designed to reduce the discharge of Pollutants from the MS4 to the maximum extent practicable. The SWMP

includes controls necessary to reduce the discharge of Pollutants from its MS4 consistent with § 402(p)(3)(B) of the Clean Water Act and 40 CFR Part 122.26.

United States Army Corps of Engineers (USACE) means an agency of the United States federal government under the Department of Defense which delivers vital public and military engineering services, partnering in peace and war to strength our Nation's security, energize the economy and reduce risks from disasters.

Watercourse means a definite channel with bed and banks within which concentrated water flows, either continuously or intermittently.

Sec. 20-441. Permits.

(a) No person shall be granted a Land Disturbance Permit for land-disturbing activity that would require the uncovering of ten thousand (10,000) or more square feet without the approval of an Erosion and Sediment Control Plan by the Agent.

(b) No Land Disturbance 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.
- (3) Any development where City development approval is required by the City of Madison Subdivision Regulations or Zoning Ordinance. The City's approval of the development will serve as the land disturbance permit. No Land Disturbance Permit will be issued prior to or separate from the development approval.
- (4) Home construction activity concurrent with City-approved development are considered the same land disturbance activity and will remain active.

(c) Each application shall bear the name(s) and address(es) of the owner and/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 disturbance shall be in accordance with the Erosion and Sediment Control Plan and that a representative for the permittee shall be on site on all days when construction or grading activity takes place.

Sec. 20-442. Review and approval.

(a) The Agent will review each application for a Land Disturbance Permit to determine its conformance with the provisions of this article. Within thirty (30) days after receiving a complete original or revised application, the Agent 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 Agent to act on an original or revised application within thirty (30) days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless the Agent's time to act is extended by agreement between the applicant and the Agent.

Sec. 20-443. Erosion and sediment control plan.

(a) The Erosion and Sediment Control Plan shall include the following:

- (1) An estimated sequence of construction of the development site, including stripping and clearing; rough grading; installation of utilities, infrastructure, and buildings; and final grading and landscaping.
- (2) All erosion and sediment control measures necessary to meet the objectives of this article 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.

(b) Modifications to the plan shall be processed and approved or disapproved according to the process set forth in § 20-442. The permittee may proceed with work during the review process unless said modifications may be detrimental to the health, welfare or safety of the general public.

Sec. 20-444. Design requirements.

(a) Grading, erosion control practices, sediment control practices, and watercourse crossings shall meet the design criteria set forth in the most recent version of the *Handbook* and defined in the City's SWMP.

(b) Clearing and grading of natural resources, such as wetlands, shall not be permitted, except when in compliance with a USACE permit. Clearing techniques that retain natural vegetation and drainage patterns, as described in the *Handbook*, shall be used to the satisfaction of the Agent.

(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 to be established at plan review and as approved by the Agent.

(e) Erosion control requirements may include, but are not limited to:

(1) Final stabilization of disturbed areas must, at a minimum, be initiated immediately whenever any clearing, grading, excavating, or other earth-disturbing activities have permanently ceased on any portion of the site. Temporary stabilization of disturbed areas must be initiated immediately whenever work toward project completion and final stabilization of any portion of the site has temporarily ceased on any portion of the site and will not resume for a period exceeding thirteen (13) calendar days.

(2) If seeding or another vegetative erosion control method is used, whether individually or in combination, it shall become established in accordance with specifications in the *Handbook* or the Agent may require the site to be reseeded or a non-vegetative option employed.

(3) Cut and fill slopes shall be no greater than 3:1, unless approved by the Agent. On steep slopes or in drainageways greater than 3:1, special techniques that meet the design criteria outlined in the *Handbook* or that are approved by the Agent shall be used to ensure stabilization.

(4) Soil stockpiles must be stabilized and erosion control measures implemented at the end of each workday.

(5) Techniques shall be employed to prevent the blowing of dust or sediment from the site.

(6) Techniques that divert upland runoff past disturbed areas shall be employed.

(f) Sediment control requirements may include, but are not limited to:

(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 the Agent.

(3) Protection for adjacent properties by the use of a vegetated buffer strip in combination with perimeter controls

(g) Watercourse protection requirements may include, but are not limited to:

(1) A temporary stream crossing installed and approved by the USACE 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 *Handbook*.

(4) Stabilization adequate to prevent erosion located at the outlets of all pipes and paved channels.

(h) Stabilize all construction entrances and exits and minimize off-site tracking of sediment from vehicles.

Sec. 20-445. Inspection.

(a) The Agent may 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 shall be maintained at the site during the progress of the work. The permittee shall notify the Agent at least two (2) working days prior to the start of construction.

(b) The permittee or his/her agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined in the Erosion and Sediment Control Plan(s) and, if applicable, with the inspection schedule set forth in the approved ADEM permit. 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 the Agent at the time interval specified in the approved permit(s).

(c) The Agent shall be permitted the right to enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed under subsection (b).

Sec. 20-446. Enforcement.

(a) In the event that any person violates the terms of the permit or implements site development in a manner which violates this article but which does not 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, the violator and permit holder will be issued a verbal warning.

(b) In the event that any person continues to violate the terms of the permit or implements site development in a manner which violates this article but which does not 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, the violator and permit holder will be issued a written notice of violation.

(c) In the event that any person continues to violate the terms of the permit or implements site development in a manner which adversely affects 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, the Agent may suspend or revoke the Land Disturbance Permit and/or cease any other active permits of any type issued by the City for any specific site in violation of this article.

(d) 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 article. Any person who has violated and continues to violate this article shall be reported to ADEM for necessary prosecution to the fullest extent of the law.

Sec. 20-447. Severability.

The provisions of the ordinance enacting this article are hereby declared to be severable. If any provision, clause, sentence, or paragraph of said ordinance, or the application thereof to any person, establishment, or circumstances, shall be held invalid, such invalidity shall not affect the other provisions or application of this article.

Sec. 20-448. Repeal of conflicting provisions.

All current provisions of the Code and any prior ordinances or parts of ordinances which are in conflict with this article are hereby repealed.”

Section 2. That this Ordinance shall become effective immediately upon proper publication as required by law.

READ, PASSED AND ADOPTED this 13th day of April, 2015.



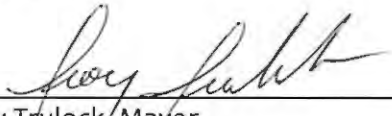
Tommy Overcash, Council President
City of Madison, Alabama

ATTEST:



Melanie A. Williard, City Clerk-Treasurer

APPROVED this 14th day of April, 2015.



Troy Trulock, Mayor
City of Madison, Alabama