

CHAPTER 23
APPENDIX A. BUILDING ORDINANCES

SOIL EROSION AND SEDIMENTATION ORDINANCE

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ARTICLE I GENERAL PROVISIONS

SECTION 101 B Title - This ordinance shall be known as “**The Soil Erosion and Sedimentation Ordinance of the City of Florence, Mississippi**” and may be so cited.

SECTION 102 B Purpose - The purpose of this ordinance is to prevent and regulate soil erosion and sedimentation into the waters of the City of Florence caused by land development thereby preserving natural resources, protecting the capacity of drainage facilities, controlling flood waters, protecting the quality of public waters, and protecting and promoting the health, safety and general welfare of the people of the City of Florence, Mississippi.

SECTION 103 B Conflict - All ordinances or parts of ordinances in conflict herewith are repealed.

ARTICLE II DEFINITIONS

SECTION 201 B Definitions - For the purpose of interpreting this ordinance, certain words used herein are defined as follows.

- (A) **Cut** - Portion of land surface or area from which earth has been or will be removed by excavation; also, the depth below original ground surface to excavated surface.
- (B) **Erosion** - Any removal or loss of soil by the action of wind and water; including both the detachment and transportation of soil particles.
- (C) **Erosion Control Devices** - Those devices or plans that are used to effect Erosion Control Measures, including without limitation, whether similar or dissimilar, hay bales, grass seeding, and silt barriers.
- (D) **Erosion Control Measures** - The State of Mississippi APlanning and Design Manual for Control of Erosion, Sediment and Storm Water@ shall be used as a guide in selecting and developing a plan. One or more of the following measures, or other methods of slowing or stopping the removal of soil by wind, water, or gravity used singularly or in combination as appropriate.
- (E) **Diversions** - A channel or channels with supporting ridge (berm, dike, or wall) constructed across a sloping land surface along the contour, or with predetermined grades, to intercept and divert surface runoff before it gains sufficient volume or velocity to create harmful erosion.
- (F) **Drains** - Surface or subsurface conduits or filter drains to reduce surface runoff or lower a high water table.
- (G) **Drain Stabilization Structures** - Drop structures made of concrete, corrugated metal pipe or other suitable materials which dissipate the energy of flowing water by dropping it in a relatively short horizontal distance.
- (H) **Grassed Waterways** - A natural or constructed waterway, usually broad and shallow, covered with erosion resistant grasses used to carry surface water.
- (I) **Land Grading** - Re-shaping the ground surface by grading to planned slopes and configurations that will prevent excessive erosion.
- (J) **Mulching** - The application of plant or other suitable materials on the soil surface to conserve moisture, reduce erosion, and aid in establishing plant cover.
- (H) **Sediment Barriers** - A temporary barrier installed to intercept sediment laden runoff and to trap and retain sediment.
- (I) **Excavation** - The act of removing dirt or soil (See ACut@.)
- (J) **Fill**- Portion of land surface or area to which soil, rock or other materials have been or will be added; height above original ground surface after the material has been or will be added.
- (K) **Grade** - The slope or elevation of ground surface prior to and after cutting and filling.
- (L) **Grading**- Any operation or occurrence by which the existing site elevations are changed by cutting, filling, borrowing, or stockpiling, or where any ground cover, natural or manmade, is removed, or any buildings or other structures are removed or any water course or body of water either natural or man-made is relocated on

any site, thereby creating an unprotected area. Grading shall be synonymous with land disturbance activity.

- (M) **Grading Permit** - The permit required before any land disturbing activities may take place as prescribed by this Ordinance.
- (N) **Land Disturbance Plan** - The plan required before a grading permit may be issued. It consists of a narrative description and appropriate drawings and maps that spell out the methods, techniques, and procedures to be followed on a site to control erosion and other potential degradation of adjoining or nearby property, during and after development, including final stabilization of the site. Sediment basins may need to be cleaned out before the developer/contractor is released from the permit requirements.
- (O) **MS DEQ** - The Mississippi Department of Environmental Quality, its successors, assigns, and analogous cognizable agencies.
- (P) **Owner** - The person(s) or entity holding the registered title to the property. The Rankin County property tax rolls shall be prima facia evidence that the person(s) or entity listed therein are the registered owner(s).
- (Q) **Permit Holder** - The owner of the property or owner=s representative in whose name a permit has been applied for and issued by the City.
- (R) **Public Works Director** - The Public Works Director shall be the designate of the Governing Authorities. At the time of Ordinance adoption, the designated Public Works Director is Bill Taylor.
- (S) **Sediment** - Rocks, sand, gravel, silt or other material deposited by action of wind, water or gravity.
- (T) **Sedimentation** - The settling out of the soil particles which are transported by wind, water or gravity.
- (U) **Stripping** - Any activity which removes or significantly disturbs the vegetative cover including clearing and grubbing operations.

ARTICLE III SITE GRADING PERMIT

SECTION 301- Permit Required - Except as otherwise exempted in Article IV following, no individual, property owner or other legal entity shall engage in any land-disturbing activity, which will modify the existing grade and/or may result in increased soil erosion or sedimentation including, but not limited to, clearing, stripping, grading, excavation, transporting, and filling unless a Site Grading Permit has first been obtained from the Public Works Director or his designee. The owner of the property or his representative shall complete an application for the permit on forms provided by the Public Works Director or his designee, and shall submit a proposed Land Disturbance Plan with the application. The property owner shall be responsible for compliance with all provisions of this Ordinance.

SECTION 302 - Mississippi Department of Environmental Quality, (MS DEQ) or its successor agency Oversight - In instances where a proposed land disturbance activity will exceed five (5) acres, or any acreage amount as may be designated by MS DEQ

Environmental Permits Division in the future, or will occur on any tract as a part of an overall commercial or service/institutional site development plan, or will occur as a part of an environmental restoration project under the supervision of the United States Environmental Protection Agency or the MS DEQ, no site grading permit shall be issued by the Public Works Director or his designee, and until the land disturbance plan is reviewed and approved by the Public Works Director or his designee until the land disturbance plan is reviewed and approved by the MS DEQ. All Land Disturbance Plans shall comply with regulations and requirements of MS DEQ.

SECTION 303 - Fees - In order to defray costs associated with the processing of permits, and for inspections of land disturbance activities, a non-refundable base fee of no less than fifty dollars (\$50.00) plus no less than twenty-five dollars (\$25.00) for each acre proposed to be disturbed shall be required with the application for a grading permit. This fee shall be periodically adjusted by the City, taking into consideration increased costs incurred with administration of this program. Notice of any proposed revisions to the fee schedule shall be published in a local newspaper of general circulation at least fourteen (14) days prior to implementation. After each hearing, the fee may then be as adjusted.

ARTICLE IV PROPERTIES EXEMPT FROM THIS ORDINANCE

SECTION 401 - The following uses and activities shall be exempt from the requirements for a site grading permit:

- (A) Single Family Residences - The construction of a single family residence or addition to an existing single family residence, provided however, such construction shall be required to comply with the Erosion Control Requirements of this ordinance as outlined in Article V, Section 501 (C). Failure of owner and/or builder/contractor/developer to comply and remain in compliance with Erosion Control Requirements will result in issuance of a Stop Work Order, as set out in Article XV Section 1503 hereof, and/or fines as set out in Article XVII Section 1701, or both.
- (B) Public Utilities/Roadways - The installation, maintenance, and repair of any public utility as well as roadway and storm drainage construction and maintenance by governmental agencies and/or their agents, provided, however that such land disturbing activity shall comply fully with the rules and regulations set forth by MS DEQ.
- (C) Agricultural Uses - Farming and other accepted agricultural uses as permitted in the zoning ordinance providing no sediment will leave the site and the integrity of the vegetative cover will be maintained.
- (D) Lawns/Gardens/Landscaping - Home gardens, home landscaping, or lawn preparations on existing lots or parcels shall be exempt from the provisions stated herein unless the possibility for erosion or alteration of drainage patterns or structures is such to necessitate a grading permit.

ARTICLE V LAND DISTURBANCE PLAN

SECTION 501 - The Land Disturbance Plan shall comply with the minimum general and technical requirements set forth in this Section. The complexity of the plan shall be commensurate with the severity of site conditions and potential for off-site drainage. The Public Works Director, or his designee, may require additional information if deemed necessary and appropriate to evaluate the feasibility of the plan. The State's "Planning and Design Manual for the Control of Erosion, Sediment and Storm Water" shall be used as a guide when developing the plan.

- (A) Plan Required - Except as otherwise exempt from the requirements of this Ordinance, a land disturbance plan shall be required prior to the issuance of a grading permit. The plan shall identify the specific and appropriate erosion control practices and sediment trapping facilities proposed for the site to be disturbed as well as a schedule for implementation. The plan shall also identify final stabilized conditions for the site, provisions for removing temporary control measures and stabilization of the site when temporary measures are removed, permanent storm water conveyance structures and maintenance requirements for any permanent measures.
- (B) Professional Design - The land disturbance plan shall be developed by a qualified profession engineer licensed in the State of Mississippi, when the area of disturbance exceeds five (5) acres, and/or by a qualified landscape architect, licensed in the State of Mississippi, for smaller areas when potentially hazardous soil or drainage conditions exist due to types of soils, steep grades, flood plain development, or threatened areas such as nearby lakes, streams, large drainage ditches, roads or wetlands.
- (C) Erosion Control - Erosion Control Measures shall be designed and provided in accordance with generally accepted engineering practices and requirements of this Ordinance. Areas that are to be developed or excavated shall apply these guidelines, fitting the appropriate measures to the specific soils and topography so as to minimize soil erosion and surface runoff. Erosion Control Devices shall be implemented and maintained in accordance with such requirements as the Building Inspector shall approve and/or issue. Time is of the essence in Erosion Control Measures implementation. Tardy compliance may result in enforcement action until either remedial action is completed to the satisfaction of the Building Inspector or fines are paid or both.
- (D) Protection of Natural Vegetation - Natural vegetation shall be retained and protected whenever feasible during construction. If land must be stripped of vegetation during construction, the exposed area shall be limited to the smallest practical size, and duration of the exposure to the shortest practical time.
- (E) Information Required:
 - (1) Name, address, and telephone number of the owner and developer (permit holders) of the property to be graded;
 - (2) The registration seal and signature of the engineer or architect who designed the plan;
 - (3) A brief project description;

- (4) A plan drawn to a scale no less than one inch=100 feet including pre-development and post development topography and grades no greater than two (2) foot contour intervals including twenty (20) feet of all adjacent properties and to the center line of any adjacent roadways;
- (5) The site location, boundaries, adjacent properties, location of any buildings or structures on the property or an adjacent land within one hundred (100) feet of the area to be disturbed, flood plain areas, ditch lines and any existing on and off-site structural or natural features of the land which have a significant impact on drainage or sediment control, or may be threatened by the development;
- (6) The location and a description of temporary and permanent erosion control measures and drainage devices to be constructed and structural changes and improvements to the land including clearing and grading limits, daily cleanup and site control practices, and other activities to mitigate the adverse impact of land disturbance. Also, the location needs to be noted of temporary stockpiles of topsoil or other soil material to ensure such stockpiles will not pose a potential problem; and,
- (7) A time schedule for initiation and completion of the measures and devices and periodic maintenance after completion.

ARTICLE VI CONSTRUCTION ACCESS ROUTES

SECTION 601 - A stabilized stone pad shall be placed at any point where traffic will be entering and leaving a construction site to or from a public road prior to the initiation of any grading work. Stone pads shall contain ASTM-1 stone, six (6) inches thick and shall be placed a minimum width of twelve (12) feet and length of one-hundred (100) feet from the public road into the site.

ARTICLE VII CUT AND FILL SLOPES

SECTION 701 - Permanent cut and fill slopes shall be designed and constructed in a manner that will minimize erosion. Consideration shall be given to the length and steepness of the slope, the soil type, up slope drainage area, groundwater conditions, and other applicable factors. Any slopes installed at two (2) foot horizontal to one (1) foot vertical or steeper shall be stabilized with rock rip-rap or other acceptable method approved by the Public Works Director , or his designee.

ARTICLE VIII STABILIZATION OF DENUDED AREAS AND SOIL STOCKPILES

SECTION 801 - Permanent erosion control measures shall be applied to denuded areas within fifteen (15) days after final grade is reached on any portion of the site. Soil stabilization shall also be applied within fifteen (15) days to any denuded area which may not be a final grade, but will remain dormant (undisturbed by construction activity) for

longer than sixty (60) days. Any temporary soil stockpiles shall be stabilized or protected with sediment trapping measures to prevent erosion. Applicable erosion control measures shall include establishment of vegetation, mulching, and the early application of gravel base on areas to be paved. Selected permanent or temporary erosion control measures should be appropriate for the time of year, site conditions, and estimated duration of use.

ARTICLE IX ESTABLISHMENT OF PERMANENT VEGETATION

SECTION 901 - A permanent vegetative cover shall be established on denuded areas not otherwise permanently stabilized through the construction of approved structures and parking lots/driveways. Permanent vegetation shall not be considered stabilized until a ground cover is achieved, which in the opinion of the Public Works Director, or his designee, is mature enough to control erosion and to survive seasonal conditions for a period of one (1) year from initial planting. Permanent vegetation species and their establishment should be appropriate for the time of year, site conditions and land use intended for the area.

ARTICLE X PROTECTION OF ADJACENT PROPERTIES

SECTION 1001 - Downhill Protection - All properties adjacent and/or downhill from the site of a land disturbance shall be protected from soil erosion and sedimentation. This shall be accomplished by preserving a well-vegetated buffer strip around the lower perimeter of the land disturbance or by installing perimeter controls such as sediment barriers, filters, or dikes, or sediment basins, or by a combination of such measures.

SECTION 1002 - Use of Buffer Strips - Vegetated buffer strips shall be used alone only where Storm water runoff is anticipated to occur through sheet flow and shall be a minimum of 20 feet in width. However, the buffer strip width should be designed according to soil type, slope, and other conditions on site. If at any time it is found that a vegetated buffer strip along is ineffective in stopping erosion onto adjacent property, additional perimeter controls shall be provided by the owner.

SECTION 1003 - Sediment Control - Sediment basins and traps, perimeter dikes, sediment barriers, dams, diversions, and other erosion control measures intended to trap sediment on-site shall be constructed as the first step in grading, and shall be made functional prior to disturbance of up slope land. Earthen structures such as dams, dikes and diversions shall be seeded and mulched within seven (7) days of installation. Sediment shall be removed from basins and traps or other measures when sediment has reached design capacity and there is potential for additional sedimentation.

SECTION 1004 - Storm water Runoff - Storm water runoff from disturbed areas five (5) acres or greater shall pass through a sediment basin or other suitable sediment trapping facility. All storm drainage inlets shall be protected during construction with a

sediment barrier to prevent clogging and localized flooding. If necessary, basins or traps may need sediment removal or repairs.

ARTICLE XI DISTURBANCE IN STREAMS AND FLOODWAYS

SECTION 1101 - The applicant for proposed land disturbance activities in streams (defined by a blue line on a seven and one-half minute United States Geological Survey quadrangle) and designated floodways shall be required to provide evidence of obtaining appropriate permits from Federal and State regulatory agencies or a written waiver of such permits prior to the issuance of a site grading permit by the City.

ARTICLE XII EXISTING AREAS WITH SOIL EROSION PROBLEMS

SECTION 1201 - Upon written notification from the Public Works Director, or his designee, the owner of any parcel of land which exhibits unstable or eroding soil conditions, and impacts downhill properties, public right-of-ways or water courses, whether such conditions exist before or arise after enactment of this Ordinance, shall correct the problem within ninety (90) calendar days from receipt of official notification. Upon written request to the Public Works Director, the period for correction may be extended if seasonal conditions warrant and temporary erosion control measures are installed.

SECTION 1202 - Minimum corrective measures may include stabilizing eroding slopes and re-vegetating all exposed soil surface. Before commencing corrective measures, the owner shall consult with the Public Works Director, or his designee, to determine an acceptable method of correction. A permanent plan for erosion control shall be submitted to the Public Works Director or his designee, for review and approval prior to initiation of corrective measures.

ARTICLE XIII PERFORMANCE BONDS

SECTION 1301 - Prior to the issuing of a permit for any land disturbance activity in excess of five (5) acres, and for small areas when potentially hazardous soil or drainage conditions exist due to types of soils, steep grade, flood plain development, or threatened areas such as nearby lakes, streams, large drainage ditches, roads or wetlands, the applicant shall be required to provide a performance bond or similar form of security acceptable to the City to complete all land and grade stabilization measures and improvements as shown in the approved Plan. The Public Works Director, or his designee, shall establish the amount and time period of the bond, based on the estimated cost and time for completing the Plan. Within thirty (30) days of the completion and final inspection by the City of all provisions of the approved Plan, said bond or security shall be refunded or terminated, provided, however, that a maintenance bond no greater than fifty percent (50%) nor less than ten percent (10%) of the original bond as determined by the Public Works Director, or his designee, shall be required for a period of one (1) year

to ensure that the permanent vegetation is mature enough to control erosion and to survive seasonal weather conditions.

ARTICLE XIV APPEALS

SECTION 1401 - Whenever the Public Works Director, or his designee, rejects or refuses to approve the mode or manner of construction proposed to be followed, or materials to be used, or when it is claimed that the provisions of this article do not apply or that an equally good or more desirable form of construction can be employed in any specific case, or when it is claimed that the true intent of meaning of this chapter or any of the regulations thereunder have been misconstrued or wrongly interpreted, the owner of such property or his duly authorized agent may appeal the decisions of the Public Works Director, or his designee, to Governing Authorities. Notice of appeal shall be in writing and filed within thirty (30) days after the decision is rendered by the Public Works Director, or his designee. A filing fee of fifty dollars (\$50.00) shall accompany such notice of appeal which shall be refundable if the Governing Authorities uphold the appeal of the applicant. The Governing Authorities shall meet and conduct a hearing on the appeal within sixty (60) days unless the appellant requests or consents to additional time.

ARTICLE XV INSPECTIONS

SECTION 1501 – Owner’s Responsibility - It shall be the responsibility of the site grading permit holder:

- (A) To provide in writing an anticipated phasing plan and schedule of the land disturbance activities from initiation to completion. The permit holder shall promptly notify the City in writing if there are any changes to the schedule or delays associated with the phasing plan; and
- (B) To conduct periodic inspections of the installed erosion control measure during construction and of nearby downstream facilities, to determine if such control is effective. Any damage to downhill property caused by erosion, such as clogged storm sewers, inlets or drainage ditches, shall be immediately repaired or cleaned by the permit holder.

SECTION 1502 - City Oversight - The Public Works Director, or his designee, may enter upon any site and periodically make inspections of any disturbed or graded area before, during and after construction to ensure compliance with the requirements of this article and the authorized Land Disturbance Plan. If the Public Works Director, or his designee, determines that significant erosion problems are occurring on the site despite compliance with approved protective practices, the permit holder shall be required to take additional corrective actions to protect the adversely affected area. The specifications of the additional measures shall be part of an amendment to the Land Disturbance Plan.

SECTION 1503 - Correction of Problems by Owner - If it is determined by the Public Works Director, or his designee, that the permit holder has failed to comply with the

approved Plan, a correction notice shall immediately be served upon the permit holder in writing, setting forth the measure needed to come into compliance and specifying time for such compliance. Where an immediate threat to public health and safety exists, verbal notice given by the Public Works Director, or his designee, to immediately correct the problem shall be sufficient, but it shall be followed by written notice. Failure to comply within the time specified shall subject the permit holder to a Stop Work Order which shall remain in effect until the work in progress is in compliance with the specifications of the approved Plan.

ARTICLE XVI CITY CORRECTION/COLLECTION PROCEDURES

SECTION 1601 - All temporary and permanent erosion control measures shall be maintained and repaired as needed by the property owner to assure continued performance of their intended function. If it is determined that a property owner has failed to correct an existing unstable or eroding soil condition which impacts downhill properties, public right-of-ways or water courses or has failed to maintain temporary and permanent erosion control measures installed after enactment of this Ordinance, or has failed to comply with any of the provisions of this Ordinance, a corrective notice shall be sent by certified mail to the property owner, setting forth the measures needed to come into compliance and specifying time for such compliance. When an immediate threat to public health and safety exists, verbal notice given by the Public Works Director, or his designee, to immediately correct the problem shall be sufficient, but it shall be followed by written notice within seven (7) days.

SECTION 1602 - Should the property owner fail to remedy the above conditions within the prescribed time, the Public Works Director shall remedy the condition or cause the same to be done by an appropriate City department or other contractual arrangement. Thereafter, the Governing Authorities may, at their next regular meeting, by resolution, adjudicate the actual cost incurred in correcting and remedying the situation. The cost may become a civil debt against the property owner, or, at the option of the Governing Authorities, an assessment against the property.

(A) In the event the Governing Authorities declare, by resolution, that the cost shall be collected as a civil debt, the Governing Authorities may authorize the institution of a suit on open account against the owner of the property in a court of competent jurisdiction in the manner provided by law for such cost, plus court costs, reasonable attorney's fees and interest from the date that the condition was corrected.

(B) In the event the Governing Authorities do not declare that the cost shall be collected as a civil debt, then the assessment above provided shall be a lien against the property and may be enrolled in the office of the Circuit Clerk of the County as other judgments are enrolled, and the Tax Collector of the City may, pursuant to the resolution of the Governing Authorities authorizing such action, proceed to sell the land to satisfy the lien as now provided by law for the sale of lands for delinquent municipal taxes.

(C) Such cost may also be collected as a portion of restitution in a criminal proceeding, incidental to any fines assessed.

ARTICLE XVII PENALTY FOR VIOLATION

SECTION 1701 B Violation of this Ordinance may result in a fine of up to one-thousand dollars (\$1,000.00) and/or imprisonment not exceeding ninety (90) days or both, in accordance with Section 21-13-1. *Mississippi Code of 1972*, as annotated. The preceding penalties are in addition to any remedy that is set out elsewhere in this Ordinance, specifically including Articles XV and XVI.

ARTICLE XVIII INJUNCTION

SECTION 1801 - In addition to any remedies under this Chapter or available at law, the City may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of this Chapter.