

**AN ORDINANCE FOR
LAND DISTURBANCE AND EROSION CONTROL
OF THE CITY OF BYRAM, MISSISSIPPI**

WHEREAS § 21-13-1, et. seq., and § 21-17-1, et. seq., of the Mississippi Code of 1972, convey the general power upon the City of Byram, Mississippi, the City of Byram does adopt the following regulations.

BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF BYRAM, MISSISSIPPI, as follows:

SECTION 1. Purpose.

- (a) Land disturbance and other forms of site excavation can contribute to the degradation of land surfaces, water quality in streams, and lakes, and air quality. Degradation can be the result of erosion, siltation, earth slides, mud flows, dusty conditions, clogged storm sewers, increased water runoff and localized flooding. The resultant damages increase road, storm sewer, and other infrastructure maintenance costs. It is the intent of this ordinance to protect the health and safety of residents and to protect adjoining or nearby property in the city including land, streams, hills, and vegetation through the oversight of land disturbance activities.
- (b) Except as otherwise provided for, the following regulations shall apply in all zoning districts as shown on the zoning map of the city.

SECTION 2. Definitions.

- (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. Includes both the detachment and transportation of soil particles.
- (c) *Erosion control measures*. The state's "Planning and Design Manual for Control of Erosion, Sediment and Stormwater" shall be used as a guidance 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:
 - (1) *Diversion*. A channel or channel 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.
 - (2) *Drains*. Surface or subsurface conduits or filter drains to reduce surface runoff or lower a high water table.
 - (3) *Grade 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.
 - (4) *Grassed waterways*. A natural or constructed waterway, usually broad and shallow, covered with erosion resistant grasses used to carry surface water.

- (5) *Land grading.* Re-shaping the ground surface by grading to planned slopes and configurations that will prevent excessive erosion.
- (6) *Mulching.* The application of plant or other suitable materials on the soil surface to conserve moisture, reduce erosion, and aid in establishing plant cover.
- (7) *Sediment barriers.* A temporary barrier installed to intercept sediment laden runoff and to trap and retain sediment.
- (d) *Excavation.* The act of removing dirt or soil (See Cut).
- (e) *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.
- (f) *Grade.* The slope or elevation of ground surface prior to and after cutting and filling.
- (g) *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 man-made, 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.
- (h) *Grading permit.* The permit required before any land disturbing activities may take place as prescribed by this ordinance.
- (i) *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.
- (j) *Owner.* The person(s) or entity holding the registered title to property. The city property tax rolls shall be prima facie evidence that the person(s) or entity listed therein are the registered owner.
- (k) *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.
- (l) *Sediment.* Rocks, sand, gravel silt or other material deposited by action of wind, water or gravity.
- (m) *Sedimentation.* The settling out of the soil particles which are transported by wind, water or gravity.
- (n) *Stripping.* Any activity which removes or significantly disturbs the vegetative cover including clearing and grubbing operations.

SECTION 3. Site Grading Permit.

- (a) *Permit required.* Except as otherwise exempted in the following section, 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 article.

(b) *MS DEQ Oversight.* In instances where a proposed land disturbance activity will exceed the minimum permit requirements of MS DEQ 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 Department of Environment and Conservation or its successors, no site grading permit shall be issued by the public works director or his designee until the land disturbance plan is reviewed and approved by the MS DEQ.

(c) *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 \$50.00 plus no less than \$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.

SECTION 4. Properties Exempt from this Ordinance.

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

(1) *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 article as outlined in subsection 5(3).

(2) *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 the MS DEQ.

(3) *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.

(4) *Lawns/gardens/landscaping.* Home gardens, home landscaping, or lawn preparations on existing lots or parcels shall be exempted from the provisions stated herein unless the possibility for erosion or alteration of drainage patterns or structures is such to necessitate a grading permit.

SECTION 5. Land disturbance plan.

The land and disturbance plan shall comply with the 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 damage. 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 Stormwater" shall be used as a guide when developing the plan.

(1) *Plan required.* Except as otherwise exempted from the requirements of this article, 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.

(2) *Professional design.* The land disturbance plan shall be developed by a qualified licensed professional engineer when the area of disturbance exceeds five acres and/or by a qualified licensed landscape architect for smaller areas when potentially hazardous soil or drainage conditions exist due to types of soils, steep grades, floodplain development, or threatened areas such as nearby lakes, streams, large drainage ditches, roads or wetlands.

(3) *Erosion control.* Erosion control measures shall be designed and provided in accordance with generally accepted engineering practices and requirements of this article. 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 water runoff.

(4) *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.

(5) *Information required:*

- a. Name, address, and telephone number of the owner and developer (permit holders) of the property to be graded;
- b. The registration seal and signature of the engineer or architect who designed the plan;
- c. A brief project description;
- d. 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 foot contour intervals including 20 feet of all adjacent properties and to the center line of any adjacent roadways;
- e. The site location, boundaries, adjacent properties, location of any buildings or structures on the property or an adjacent land within 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;
- f. 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 or other soil material to ensure such stockpiles will not pose a potential problem.
- g. A time schedule for initiation and completion of the measures and devices and periodic maintenance after completion.

SECTION 6. Construction access routes.

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 inches thick and shall extend the full width of the construction road and have a length of 50 feet from the public road into the site.

SECTION 7. Cut and fill slopes.

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, upslope drainage area, groundwater conditions, and other applicable factors. Any slopes installed at two foot horizontal to one foot vertical or steeper shall be stabilized with rock riprap, or other acceptable methods approved by the public works director or his designee.

SECTION 8. Stabilization of denuded areas and soil stockpiles.

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

SECTION 9. Establishment of permanent vegetation.

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 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.

SECTION 10. Protection of adjacent properties.

- (a) *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.
- (b) *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 alone is ineffective in stopping erosion onto adjacent property, additional perimeter controls shall be provided by the owner.

(c) *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 upslope land. Earthen structures such as dams, dikes, and diversions shall be seeded and mulched within seven days of installation. Sediment shall be removed from basins and traps or other measures when sediment has reached design capacity and there is a potential for additional sedimentation.

(d) *Storm water runoff.* Storm water runoff from disturbed areas five 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. When necessary, basins or traps shall have sediment removal or repairs.

SECTION 11. Disturbance in streams and floodways.

The applicant for proposed land disturbance activities in streams, (defined by a blue line on a 7 1/2 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.

SECTION 12. Existing areas with soil erosion problems.

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 article, shall correct the problem within 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 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.

SECTION 13. Performance bonds.

Prior to the issuing of a permit for any land disturbance activity in excess of five acres, and for smaller areas when potentially hazardous soil or drainage conditions exist due to types of soils, steep grades, floodplain 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 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 50 percent nor less than ten percent of the original bond as determined by the public works director or his designee shall be required for a period of one year to ensure that the permanent vegetation is mature enough to control erosion and to survive seasonal weather conditions.

SECTION 14. Appeals.

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 and 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 decision to the mayor and board of aldermen. Notice of appeal shall be in writing and filed within 30 days after the decision is rendered by the public works director or his designee. A filing fee of \$50.00 shall accompany such notice of appeal which shall be refundable if the board upholds the appeal of the applicant.

SECTION 15. Inspections.

(a) *Owner's responsibility.* It shall be the responsibility of the site grading permit holder:

(1) 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

(2) 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.

(b) *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 city 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 actions to protect the adversely affected area. The specifications of the additional measures shall be part of an amendment to the land disturbance plan.

(c) *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.

SECTION 16. City correction/collection procedures.

(a) 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 article, or has failed to comply with any of the provisions of this article, 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 days.

(b) 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 authority, an assessment against the property.

(1) In the event the governing authority declares, by resolution, that the cost shall be collected as a civil debt, the governing authority 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.

(2) In the event the governing authority does 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 municipality may, pursuant to the resolution of the municipal 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.

SECTION 17. Miscellaneous.

(a) Penalties for violation - any person found to be in violation of any of the terms and provisions of this article shall be guilty of a misdemeanor and subject to a fine not to exceed \$500.00 or imprisoned for no more than ninety (90) days or both such fine and imprisonment. A continuance of a violation without reasonable effort on the part of the defendant to correct same shall be and constitute a new and separate offense each day.

(b) *Validity.* If any term or provision of this article shall be held to be unconstitutional or otherwise unenforceable, the remainder thereof shall not be affected thereby and shall remain in full force and effect.

(c) *Conflict.* All ordinances heretofore adopted on the subject of this article which are in conflict herewith are hereby repealed and the applicable provisions of the article are substituted in their place.

(d) *Variances.* The mayor and board of aldermen shall have the power to authorize variances from the provisions or requirements of this article as will not be contrary to the public interest. No variance from the strict application of any provision shall be granted unless it is found that:

(1) Literal interpretation of the provisions of this article would deprive the owner of reasonable use of their land; and

(2) Granting the variance would be in harmony with the general purpose and intent of this article and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

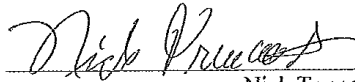
SECTION 18. Effective Date.

This Ordinance will become effective thirty (30) days after adoption, as set forth by Section 21-13-11 of the Mississippi Code of 1972.

SECTION 19. Reserved.

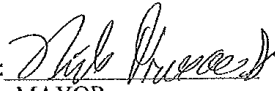
Reserved for future amendment.

SO ORDAINED, THIS THE 23rd DAY OF September, 2010.



Nick Tremonte, Mayor

	Aye	Nay
ALDERMAN ALDAY	<u>✓</u>	_____
ALDERMAN DOUGLAS	<u>✓</u>	_____
ALDERMAN FORD	<u>absent</u>	_____
ALDERMAN MARBLE	<u>✓</u>	_____
ALDERMAN WHITE	<u>✓</u>	_____

APPROVED: 

MAYOR

ATTEST 

CITY CLERK



THIS IS TO CERTIFY that the aforementioned Land Disturbance and Erosion Control Ordinance was adopted at the regular meeting of the Mayor and Board of Aldermen of the City of Byram, Mississippi, held on September 23, 2010, and duly recorded in Minute Book 1 Page thereof.

Angela E. Picklburg
CITY CLERK

Signed _____