

ORDINANCE NO. 441

AN ORDINANCE REGULATING AND CONTROLLING EROSION AND SEDIMENT WITHIN THE CITY OF BAY ST. LOUIS, MISSISSIPPI

WHEREAS, the governing authorities of the City of Bay St. Louis, Mississippi (the “City”) did, in March of 2003, adopt a Stormwater management Plan (the “Plan”) pursuant to the requirements of the Federal Phase II Stormwater Regulations (the Regulations”); and

WHEREAS, the Plan calls for the adoption of certain ordinances in order to bring the City into compliance with the Regulations.

NOW THEREFORE, BE IT ORDAINED by the governing authorities of the City of Bay St. Louis, Mississippi, as follows:

Section 1. Introduction/Purpose

During the construction process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches and the dredging of lakes. In addition, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat.

As a result, the purpose of this regulation is to safeguard persons, protect property, and prevent damage to the environment in Bay St. Louis, Mississippi. This ordinance will also promote 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 Bay St. Louis, Mississippi.

Section 2. Definitions

“Clearing”, means any activity that removes or disturbs the vegetative surface cover.

“Drainage Way”, means any channel that conveys surface runoff throughout the site.

“Erosion Control”, means a measure or activity that prevents erosion.

“Erosion and Sediment Control Plan”, means a set of plans prepared by or under the direction of a licensed professional engineer or certified contractor 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.

“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.

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

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

“Permit”, means a permit issued by the municipality for the construction or alteration of ground.

“Site Development”, means improvements and structures for the control of erosion, runoff and grading.

“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, footing, piers, or foundation; erection of temporary forms; and installation of accessory buildings such as garages.

“Stormwater Design Manual”, means the Planning and Design Manual for the Control of Erosion, Sediment and Stormwater written by the Mississippi Soil and Water Conservation Commission and the USDA Soil Conservation Service

“Watercourse”, means any body of water, including, but not limited to lakes, ponds, rivers or streams.

“Waterway”, means a channel that directs surface runoff to a watercourse or to the public storm drain.

Section 3. Permits

3.1 Permits Required for Land Disturbance

No land owner or land operator shall receive any zoning compliance certification, building, grading or other land development permits required for land disturbance activities without first meeting the requirements of this ordinance prior to commencing the proposed activity.

3.2 Exceptions to Land Disturbance Permit

No site development 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, forestry or logging or agricultural; operations conducted as a permitted main or accessory use.

3.3 Application Requirements for Single-Family Residences or multi Family Complexes under three units

Unless specifically excluded by this ordinance, landowners proposing the development of a single family residential unit or a multi-family complex under three units shall submit to the Bay St. Louis Building Official a permit application on a form provided by the Bay St. Louis Building Office for the purpose and a non refundable permit review fee.

3.4 Application Requirements for Multi-Family Complexes greater than three units, Commercial Activities and Industrial Activities on Less than One Acre

Unless specifically excluded by the Ordinance, landowners proposing the development of commercial or multi-family units of four or more units and on a site under one acre in size, shall submit a Stormwater Management Plan as part of their Site Plan Review Documentation, A Stormwater Maintenance Agreement, and a non refundable permit review fee to the Bay St. Louis Building Office.

3.5 Application Requirements for Multi-Family Complexes greater than Three Units, Commercial Activities and Industrial Activities on One Acre or More

Unless specifically excluded by the Ordinance, landowners proposing the development of commercial or multi-family units of four or more units and on a site one acre or more, shall submit a copy of their Stormwater Management Plan, as required by MDEQ under the NPDES Phase I and Phase II Programs as part of their Site Plan Review Documentation, a Stormwater Maintenance Agreement and a non refundable permit review fee to the Bay St. Louis Building Office.

3.6 Required Identification of Principals

Each application shall bear the name and address of the owner 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.

3.7 Activities to Occur in Accordance with Approved Erosion and Sediment Control

Each application shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the Erosion and Sediment Control Plan and that a contractor, experienced with Erosion and Sediment Control (Certified Contractor) shall be on site on all days when construction or grading activity takes place.

Section 4. Review and Approval

4.1 Application Procedure

- 4.1.1 Applications for land disturbance activity permits must be filed with the Bay St. Louis Building Office on any regular business day.
- 4.1.2 Applications for Single Family Residential Units and Multi-Family Units of three or fewer units will be reviewed by the Building Official or his designee. The Building Official will act on all applications within seven (7) working days after the applicant has fully complied with provisions of this Ordinance. The Building Official shall either issue a Permit or notify the applicant in writing of the reason for the refusal.
- 4.1.3 Applications for all Commercial and Multi-Family Units of four units or more should submit a Stormwater Management Plan and Stormwater Maintenance Agreement as part of the Site Plan Review Documentation. Within sixty (60) days of receiving an application for site plan review, the Bay St. Louis Planning Commission shall act to approve, disapprove, or approve with conditions the site plan application. In the case of approval with conditions, the Bay St. Louis Planning Commission shall specify what conditions are necessary.

4.2 Plan Revision if Denied

If the Erosion and Sediment Control Plan is disapproved, the applicant may revise the stormwater plan or agreement. If additional information is submitted, the Building Official shall have 30 business days from the date the additional information was received to inform the applicant that the plan is either approved or disapproved.

4.3 Failure by Building Department to Take Official Action

Failure of the Building Official to act on an original or revised application within the proper time frame shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by agreement between the applicant and the Building Officer. Pending preparation and approval of a revised plan, development activities shall be allowed to proceed in accordance with conditions established by the Building Office.

Section 5. Erosion and Sediment Control Plan

The purpose of the Erosion and Sediment Control plan is to aid developers in maintaining soils on the construction site and to avoid the migration of soils and sediment into waterways, drainage channels and stormwater conveyance systems, thereby impairing water quality and providing a barrier to drainage.

The Stormwater Design Manual contains an outline of elements included in an Erosion and Sediment Control Plan, and provides a sample plan. The following are required elements of Erosion and Sediment Control Plan.

5.1 Project Description

Erosion and Sediment Control Plan should include:

- (1) The purpose, size of the area to be disturbed and the location of the area to be disturbed,
- (2) Site description to include drainage ways and land cover conditions,
- (3) The identification of land use and cover conditions on the adjacent properties,
- (4) A description of the soils, and

- (5) The name, address and telephone number of contact personnel responsible for designing the plan and responsible for implementing the plan.

5.2 Planned Erosion and Sediment Control Structures and Vegetative Practices

The Erosion and Sediment Control Plan should Provide:

- (1) The beginning and completion date for construction activities,
- (2) The sequence of all construction-related erosion and sediment control practices and vegetative practices, and
- (3) The location and installation schedule for all erosion and sediment control practices and vegetative practices.

5.3 Operation and Maintenance Plan for Erosion and Sediment Control Structures and Vegetative Practices

The Erosion and Sediment Control Plan shall provide an operation and maintenance plan control features which will include regular maintenance schedule during construction, practice reestablishment, repair, sediment removal and mowing due to unexpected conditions.

5.4 Drawing, Specification or Descriptions of the Erosion and Sediment Control Practices and Vegetative Practices

Utilize detailed descriptions and drawing of the types of practices that will be used to control erosion and sediment on site.

5.5 Vicinity U.S. Geological Survey Quadrangle Map

The Erosion and Sediment Control Plan should include a U.S. Geological Survey Quadrangle Map of the site area with the location of areas proposed for land disturbing activities.

5.6 A Site Topographic Map

Provide a site topographic map as part of the Erosion and sediment Control Plan and include preconstruction topography, locate drains, property lines, construction work limits and utilities. Locate trees and greenery to be preserved on this map. Scale should be no less than 1" = 60'.

5.7 A Site Development Map

Provide a map and locate all proposed erosion and sediment control practices and vegetative practices on the site. Also locate buildings and paved areas, raw materials or finished product stock pile areas, equipment storage areas, processing areas, construction entrances, access to haul roads, and finished grades on a duplicate of the site topographic map.

5.8 A Site Erosion and Sediment Control Map

Provide a map and identify the location of all the erosion and sediment control practices and vegetative practices with the location of all permanent construction, associated paved areas and finished grades.

5.9 Continuing Education for All Employees to Inform Employees of Plan Requirements

Plan to provide education to all employees about the requirements of the Erosion and Sediment Control Plan. This should include schedule of activities, updates on the installation of new practices, regular maintenance and reestablishment, repair and sediment removal.

Section 6. Design Requirements

6.1 Grading Practices

Grading, erosion control practices, sediment control practices and waterway crossing shall meet the design criteria set forth in the most recent version of the Stormwater Design Manual, and shall be adequate to prevent transportation of sediment from the site to the satisfaction of the Building Department. Cut and fill slopes shall be no greater than 2:1, except as approved by the Building Department to meet other community or environmental objectives.

6.2 Natural Vegetation Protection

Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when in compliance with all other chapters of this Code. Clearing techniques that retain natural vegetation and drainage patterns, as described in the Stormwater Design Manual, shall be used to the satisfaction of the Building Office.

6.3 No Clearing to Begin until sediment Control Devices Installed

Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.

6.4 Construction Sequencing and Phasing

Phasing and sequencing of construction and clearing, as described in the Stormwater Design Manual, shall be the preferred construction method and will be encouraged to be adopted on larger sites.

6.5 Erosion control requirements shall include the following:

- (1) Soil stabilization shall be completed within five days of clearing or inactivity in construction.
- (2) If seed or another vegetative erosion control method is used, it shall become established within two (2) weeks or the Building Official may require the site to be reseeded or a nonvegetative option employed.
- (3) Special techniques that meet the design criteria outlined in the Stormwater Design Manual on steep slopes or in drainage ways shall be used to ensure stabilization.
- (4) Soil stockpiles must be stabilized or covered to prevent erosion.
- (5) The entire site must be stabilized to control erosion at the close of construction for any pro-longed period.
- (6) Techniques shall be employed to prevent blowing of dust or sediment from the site.
- (7) Techniques that divert upland runoff past disturbed slopes shall be employed.

6.6 Sediment Control requirements shall include:

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

6.7 Waterway and water course protection requirements shall include:

- (1) A temporary stream crossing installed and approved by Building Official 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 Stormwater Design Manual.
- (4) Stabilization adequate to prevent erosion located at the outlets of all pipes and paved channels.

6.8 Construction site sanitary waste requirements shall include:

- (1) In areas where sanitary sewer collection and treatment is available, existing sanitary facilities shall be provided for all construction personnel during the active construction process.
- (2) In areas where there is no available sanitary sewer collection and treatment, non-sewered toilets must be available to works during the active construction process.
- (3) For all sites where construction areas are active, non-sewered toilets or existing sanitary toilets must be available within 200 feet walking distance of any active construction sites.
- (4) Owners of property containing portable toilets are responsible for maintaining the portable toilets in a sanitary condition at all times
- (5) Portable toilets shall be placed at least one hundred (100) feet from any body of water and installed in such a way that there is no possibility of a spill or run-off into body of water.

6.9 Construction site access requirements shall include:

- (1) A temporary access road provided to all sites.
- (2) Other measures required by the Building Official in order to ensure that sediment is not tracked onto public streets by construction vehicles or washed into storm drains.

Section 7. Inspection

7.1 On-Site Inspections

The Building Official or designed agent shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permittee wherein the works 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 Building Official shall be maintained at the site during the progress of the work. To obtain inspections, the permittee shall notify the Bay St. Louis Building Official at least two working days before the following:

1. Start of construction
2. Installation of sediment and erosion measures
3. Completion of site clearing
4. Completion of rough grading
5. Completion of final grading
6. Completion of final landscaping

7.2 Permittee Progress Reports

The permittee or his/her agents shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved Erosion and Sediment Control Plan. 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 on the forms approved by the Mississippi Department of Environmental Quality and retained on-site for inspection by the Bay St. Louis Building Office.

7.3 Right to Insect at Any Time

The Bay St. Louis Building Official or its designated agents shall enter the property of the applicants as deemed necessary to make regular inspections to ensure the compliance with all sections of this Ordinance.

Section 8. Enforcement

8.1 Violations

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 ordinance. Any person found to be in violation of any of the terms and provisions of this Ordinance shall be found guilty of a misdemeanor and subject to a fine not to exceed \$500 or imprisoned for no more than ninety (90) days or both. 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.

8.2 Notice of Violation

If the Building Official shall find that the provisions of this Ordinance are violated, the person responsible for such violation shall be notified in writing, indicating the nature of the violation and ordering action necessary to correct it. Among those actions which he/she shall order is discontinuance of any actions on site. In such case that the Building Official is left without any further recourse but to seek police assistance, he may call upon the Bay St. Louis Police Department to furnish him with necessary police personnel to fulfill his duties.

Stop Work Order

In the case that any person holding a site development permit pursuant to this ordinance violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare or safety of person 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 Building

Official may institute injunction, mandamus, or other appropriate action in proceeding to prevent violation of any element of this Ordinance.

8.3 Restoration of Lands

Violators may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time, after notice, the City of Bay St. Louis may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

Section 9. Separability

The provisions and sections of this ordinance shall be deemed to be inseparable, and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.

Section 10.

That all Ordinances and parts of Ordinances in conflict with this Ordinance are hereby repealed.

Section 11.

This ordinance shall take effect thirty (30) days following its adoption.

Councilman Seal moved, seconded by Councilman Taylor that the foregoing ordinance entitled, "AN ORDINANCE REGULATING AND CONTROLLING EROSION AND SEDIMENT WITHIN THE CITY OF BAY ST. LOUIS, MISSISSIPPI," be adopted as recommended by the Mayor.

A vote was called for with the following response:

VOTING YEA: Seal, Taylor, Compretta, Farve, and Thriffiley

VOTING NAY: None

CERTIFICATION

I, Paula C. Fairconnetue, Clerk of Council for the City of Bay St. Louis, Mississippi, do hereby certify that the foregoing Ordinance No. 441 is a true and correct extract of the minutes of a public meeting of the City Council held on January 4, 2005, a quorum being present, in the City Hall Annex and recorded in Minute Book 38, minutes of said Council, said Council being the duly elected, qualified and acting governing body of Bay St. Louis.

Presented by me to the Mayor on this, the 7th day of January, 2005.


Paula C. Fairconnetue, Clerk of Council

Approved and signed by me on this, the 16th day of May, 2005.


Edward A. Favre, Mayor