

TOWN OF MAGNOLIA SPRINGS

ORDINANCE NO. 2008-05

AN ORDINANCE REGULATING LAND DISTURBANCES IN THE TOWN OF MAGNOLIA SPRINGS AND ITS JURISDICTION; PRESCRIBING CERTAIN DUTIES AND CONDITIONS; AND PROVIDING PENALTIES FOR THE VIOLATION OF THIS ORDINANCE

WHEREAS, the Town Council of the Town of Magnolia Springs finds that soil erosion and other consequences of unregulated land disturbance cause pollution, a positive danger to health, and a material public nuisance; and

WHEREAS, the Town Council of the Town of Magnolia Springs recognizes the need to protect the public health and welfare by regulating land disturbances and preventing soil erosion and other consequences of unregulated land disturbances; and

WHEREAS, The Town Council of the Town of Magnolia Springs acknowledges the need to protect the Magnolia River, a vital resource for the Town of Magnolia Springs, from pollution caused by soil erosion and other consequences of unregulated land disturbances.

NOW, THEREFORE BE IT ORDAINED by the Town Council of the Town of Magnolia Springs, Alabama, as follows:

Section 1. Purpose and Intent

It is the purpose of this ordinance to further the maintenance of safe and healthful conditions, prevent and control water pollution, prevent and control soil erosion, protect spawning grounds, protect fish and aquatic life, preserve ground cover and scenic beauty and promote sound environmental practices.

Section 2. Definitions

Words and phrases used in this article shall have the meanings as set forth in this section. Words and phrases not defined in this section but defined elsewhere in the zoning ordinances shall be given the meanings as set forth in such ordinances. All other words and phrases shall be given their common, ordinary meaning unless the context clearly requires otherwise.

Agricultural activity: Planting, growing, cultivating and harvesting crops for human or livestock consumption including sod farms and silviculture.

Best management practice (BMP): Structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment, or pollutants carried in runoff to waters of the state.

Construction site: An area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.

Erosion: The process by which the land's surface is worn away by the action of wind, water, ice or gravity.

Erosion and sediment control plan: A plan developed to address pollution caused by soil erosion and sedimentation during land disturbing construction activity.

Qualified Credentialed Inspector (QCI): An operator, operator employee, or operator designated qualified person who has successfully completed initial training and annual refresher Qualified Credentialed Inspection Program (QCIP) training, and holds a valid certification from a department approved cooperating training entity.

Qualified Credentialed Professional (QCP): A staff member of the Alabama Department of Environmental Management (ADEM) designated by the Director of ADEM, a licensed Professional Engineer, an Alabama Natural Resources Conservation Service professional designated by the State Conservationist, a Certified Professional in Erosion and

Sediment Control, or other registered professionals (including, but not limited to, geologists, soil scientists, land surveyors, landscape architects).

Sediment: Settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

Site: The entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application.

Water(s): Includes, but is not limited to, water on or beneath the surface of the ground, including natural or artificial watercourses, streams, rivers, lakes, ponds, or diffused surface water and water percolating, standing or flowing beneath the surface of the ground.

Watercourse: A natural or artificial channel through which water flows.

Section 3. General Design Principles

The following principles apply to all land disturbing activities within the jurisdiction of the Town of Magnolia Springs, Alabama and should be considered when preparing construction plans and/or submissions required under this ordinance.

- a. To minimize the potential for soil erosion, development should fit the topography and soils of the site. Areas with extreme slopes where cuts and fill would be required should be avoided.
- b. Natural vegetation should be maintained and protected wherever and whenever possible. Areas immediately adjacent to watercourses, wetlands and lakes should be left undisturbed wherever possible so that the smallest practical area of land will be exposed for the shortest practical period of time during development.
- c. Sediment basins, silt traps and filters should be installed prior to the beginning of construction to remove as much sediment as possible from runoff leaving the site or entering watercourses, wetlands, lakes or reservoirs.
- d. The selection of soil erosion and sedimentation control measures should be based on the size of the project, the frequency of climatic events likely to accelerate erosion, the season during which the project is being constructed and the potential for damage should erosion and sedimentation occur.
- e. In the design of erosion and sedimentation control measures the requirements for proper maintenance will be considered.
- f. Provision should be made to accommodate the increased runoff caused by altered surface and soil conditions both during and after development. Drainage ways should be designed so that their final gradients and resultant velocities will not cause erosion.
- g. Provision should be made for the proper transport of soil from the site without tracking or spilling soil along the transport route.
- h. Permanent vegetation and erosion control structures should be installed and temporary structures removed prior to the issuance of final occupancy permits.
- i. Any land disturbance activity which takes place in a right-of-way requires approval from the governing agency.
- j. Pasturing or outside yarding of livestock should be avoided on land within one hundred (100) feet of a watercourse which leads to a stream or river used for recreation.

Section 4. Design Criteria, Standards and Specifications

All erosion and sediment control measures, including, but not limited to those required to comply with this ordinance, shall meet the design criteria, standards and specifications given in the most current version of the Alabama Handbook for Erosion Control, Sediment Control and Storm Water Management on Construction Sites and Urban Areas.

Section 5. Specific Requirements

Control of erosion and sediment through the entire duration of the land disturbing activity is the responsibility of the applicant. The following measures shall be utilized where required to provide the necessary control.

- a. Runoff from off-site and flowing through the land in question may be diverted around the land disturbing activity by means of swales, channels, ditches, culverts or storm sewers. The diversion may be a temporary installation, utilized only until the land

disturbing activity is complete, or it may be a permanent part of the proposed improvement on the land. Such diversion shall not be such that it causes drainage or erosion problems down stream and does not require impact to existing wetlands, not covered by existing permits.

- b. Any detention basin proposed for the site should be utilized during construction as a sediment basin to trap as much soil as possible. Such basins shall be designed for this purpose, utilizing over excavation for temporary sediment storage, temporary perforated standpipes and or stone filters as required by proper engineering design.
- c. Temporary sediment traps may be required in areas where runoff exits the site and is likely to carry sediment from eroded soils on the site. The temporary traps shall be sized proportionate with the expected flow rate from the site.
- d. Ingress and egress to the site shall be by way of coarse stone drive(s) of sufficient length to cause soil picked up by the tires of vehicles to be dropped before the vehicle enters the roadway. Drives shall be designed and situated so that they provide maximum protection against tracking of soil or mud onto the roadway. For single family and duplex home sites the stone drive should coincide with the final location of the drive to the residence.
- e. Drain inlets and entrances to culverts shall be protected with an installation of acceptable inlet protection.
- f. All disturbed ground left inactive for a period of thirteen (13) days shall be seeded, sodded or stabilized with mulch or equivalent.
- g. Storage piles of soil left for longer than three (3) days shall be completely encircled with silt fence. If left inactive or unused for longer than twenty-one (21) days the pile shall be seeded, sodded, or covered with a mulching fabric or tarpaulins.
- h. Stone check dams shall be used in open drainage courses to slow velocities of the runoff.
- i. Based on individual site characteristics, silt fence shall be installed along the down slope edges of all disturbed areas on the site. Silt fence shall be installed in such a manner to prevent sediment from leaving the site.
- j. Prevention of wetland degradation. Temporary sediment barriers shall be installed where needed on all exposed slopes which meet or exceed four horizontal to one vertical (4:1) and are within twenty-five (25) feet of wetlands, waters of the state, or any surface water feature not bounded entirely by the limits of the development site. These shall be placed and maintained such that drainage will not overflow or bypass the barrier and shall remain in place until the slope is leveled or permanently stabilized.
- k. Dust control. All development which will result in exposure of bare soil during dry periods shall follow short-term stabilization methods as follows:
 1. Maintain soils in a damp condition as determined by sight or touch.
 2. Establish a stabilized surface through watering or other approved methods.
 - a. Stabilization. Within ten (10) days of ceasing activity, an operator shall implement at least one (1) of the following long term stabilization techniques for any disturbed surface area where construction activities are not scheduled to occur for at least thirty (30) day.
 1. Re-vegetation that results in seventy-five percent (75%) ground coverage provided that an active watering system is in place at all times.
 2. Establish a stabilized surface through watering with physical access restriction surrounding the area or other approved methods.

Section 6. Maintenance of Erosion Control Measures

All erosion control measures shall be maintained throughout the course of the construction or until the growth of vegetation has made them unnecessary. If silt fence is temporarily removed to allow access to a portion of the site it shall be re-installed at the end of the work day. The applicant is responsible for the maintenance of all erosion control measures.

Section 7. Erosion Control Plan

An erosion control plan shall be submitted with each application as follows:

- a. **Minor Projects** – Single Family Homes, Accessory Structures and areas of disturbance less than one (1) acre. The erosion control plan for single family home sites shall be made a part of the site plan provided with the application for a Land Use Certificate. It shall be prepared by an Alabama Licensed Professional Land Surveyor, Engineer, Architect, Landscape Architect, a Certified Professional in Erosion and Sediment Control, a QCI, a licensed home builder or a licensed general contractor. The site plan shall show, as a minimum, the direction of surface slopes, any watercourse on the lot, and the location of all erosion control installations proposed.
- b. **Major Projects** – All other Residential and Non-Residential Sites (including, but not limited to, areas of disturbance greater than or equal to one (1) acre). The erosion control plan for multi-family and all non-residential sites shall conform to the following:
 1. The plan shall be prepared by an Alabama Licensed Professional Land Surveyor, Engineer, Architect, Landscape Architect or QCP.
 2. The plan shall be drawn to a scale adequate to clearly show the site and the required information. In no case shall the plan be drawn to a scale less than 1"=100'.
 3. The plan may incorporate one or more sheets as necessary to clearly convey the intent of the plan. The plan may also incorporate text to explain any specifics of the plan cover the specifications for the materials required or convey the development phasing.
 4. As a minimum the plan shall show all existing and proposed:
 - a. Site Boundaries, lots, etc.
 - b. All watercourses (with sizes), ponds, lakes, wetlands.
 - c. Apparent floodplains, floodway fringes and floodways.
 - d. Soil types and their erodability. The information provided in the Soil Survey of Baldwin County, Alabama as published by the U.S. Dept. of Agriculture, Natural Resources Conservation Service, is appropriate.
 - e. Vegetative cover such as crops, grass, weeds, and/or trees. The use of exotic or invasive species as proposed vegetative cover is discouraged.
 - f. Utilities, structures, road pavements and other improvement.
 - g. Existing contours at an interval not greater than two (2) feet. An adequate number of spot elevations may be provide in lieu of the contours.
 - h. Locations and dimensions (where applicable) of all proposed erosion control measures.

Section 8. Permits

General – A land disturbance permit shall be obtained for all minor and major projects. The permit shall be on a form provided by the Town of Magnolia Springs. For small scale projects a Land Use Certificate shall be used in lieu of land disturbance permit.

- a. **Permit Conditions** – All permits shall require the applicant to:
 1. Notify the Town of Magnolia Springs at least twenty-four (24) hours before beginning any major project land disturbing activity.
 2. Notify the Town of Magnolia Springs of any modifications of the erosion control plan within seven (7) days of change.
 3. Install and maintain all erosion control measures as identified in the erosion control plan.
 4. Maintain all road drainage systems, storm water drainage systems and other facilities as identified in the erosion control plan.
 5. Remove sediment resulting from land disturbing activities from adjacent surfaces and/or drainage courses in accordance with all State and Federal regulations.
 6. Allow the Town of Magnolia Springs to enter the site to verify compliance with the erosion control plan.
 7. Submit a revised plan for approval if the nature of the project changes from that proposed under the permit.
 8. Submit copies of all necessary state and federal permits.

- b. **Permit Fees** – All fees for a Land Disturbance Permit shall be paid prior to permit issuance
- c. **Length of Permit Validity** – In the event that the land disturbing activities are not started within six (6) months and/or the work is not completed within two (2) years from the date of the permit said permit shall become invalid and a new permit shall be obtained.
- d. **Revocation** – The Town of Magnolia Springs may revoke the permits provided for under this ordinance at any time and at the Town’s discretion.

Section 9. Enforcement

- a. **Stop Work Notice** – The Town of Magnolia Springs may issue a stop work notice in accordance with this ordinance for any work not conforming to the requirements of this ordinance. The stop work notice may be lifted only after the work has been made to conform to the ordinance. If, after the stop work order has been issued for a period of not less than ten (10) calendar days and the work is not in compliance with this ordinance the Town may serve notice of violation.
- b. **Fines for Violation** – In addition to any and all other remedies set forth in this ordinance for a violation thereof, the Town or his/her designee may, for any violation of this ordinance, levy a fine against the violator(s) of up to \$150.00 for each occurrence, each day being a separate occurrence, plus all costs of collection including, but not limited to, attorney fees and costs of court. The Town shall notify the violator(s) of such fine, in writing.

Section 10. Exemptions

This ordinance shall apply to any land-disturbing activity undertaken by any person on any land except for the following activities. These activities may be subject to regulation by State and Federal agencies.

- a. The construction of single family residences when such construction is located on lots exceeding three (3) acres and construction activity disturbs less than one (1) acres and does not drain into a watercourse.
- b. Surface mining.
- c. Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work and other related activities which result in minor soil erosion.
- d. Agricultural activities as defined herein.
- e. Any project performed by a governmental entity duly authorized by federal or state law.
- f. Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Department of Transportation; or any road construction or maintenance project, or both, undertaken by any county or municipality.
- g. Forestry land management practices, including harvesting; provided, however, that the then current Alabama’s Best Management Practices for Forestry are followed.

Section 11. Publishing and Effective Date

The Town Clerk shall cause this Ordinance to be immediately published by posting copies thereof in three (3) public places within the Town, one of which shall be in the Office of the Mayor, and two (2) other public places, and after such posting, which posting and publication is in accordance with the provisions of Section 11-45-8, Code of Alabama, (1975), this Ordinance shall take effect.

Section 12. Compliance with Other Requirement of Law

Compliance with the permitting requirements with this division shall not excuse any person, entity or governmental agency from complying with all other requirements of law, including without limitation, holding a valid franchise of the Town of Magnolia Springs.

Section 13. Indemnity

The Town of Magnolia Springs shall not be liable or responsible for any acts or damages that may occur in the performance of any work by the holder of a permit, and the issuance of a permit by the Town of Magnolia Springs shall be deemed an agreement on the part of the permittee to indemnify the Town and hold it harmless against any and all liability, loss, cost, damage or

expense that may accrue to the Town because of the negligence or misconduct in the performance of any work by the permittee.

Section 14. This Ordinance shall become effective upon its adoption and publication.

Adopted and approved this, the 22nd day of April, 2008.

Charles S. Houser - Mayor

Attest:

Karen S. Biel - Town Clerk

TOWN OF MAGNOLIA SPRINGS, ALABAMA Certificate of Publication. This is to certify that **Ordinance Number 2008-05**, Town of Magnolia Springs, Alabama was published by posting on at least three (3) Bulletin Boards in the Town from **April 23, 2008** to **April 28, 2008**.

Karen S. Biel - Town Clerk