

ORDINANCE NO. 993-07



Erosion and Sediment Control

I. Title

This ordinance shall be known and called as the Erosion and Sediment Control Ordinance.

II. Jurisdiction

The provisions of this ordinance shall apply to all lands within the corporate limits of the City of Foley and subdivision developments within the Planning Jurisdiction of the City of Foley.

III. Purpose

During the construction process, soil is most vulnerable to erosion by wind and water. This 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 watercourses. In addition, clearing and grading during construction causes the loss of native vegetation necessary for terrestrial and aquatic habitat, and to provide a healthy living environment for the citizens of Foley.

As a result, the purpose of this local regulation is to safeguard persons, protect property, prevent damage to the environment and promote the public welfare by guiding and regulating the design, construction, use, and maintenance of land disturbance in the city of Foley.

IV. Definitions

Alabama Handbook for Erosion Control, Sediment Control and Stormwater Management on Construction Sites and Urban Areas (Alabama Handbook) – Volume 1 and Volume 2 from the Alabama Soil and Water Conservation Committee provides guidance for the prevention or minimization of problems related to erosion, sedimentation and stormwater management on construction sites and eroding urban areas. It provides a basis for developing sound plans implementing appropriate measures (BMPs).

Best Management Practice (BMP) – Actions which landowners, developers, and/or contractors can take to reduce the impact of human activity on the natural environment. BMPs to control pollutant discharges from land disturbance can be divided into two main categories: erosion controls and sediment controls. Erosion and sediment controls can each be further described as permanent controls or temporary controls. BMPs shall meet or exceed recognized effective industry standards as outlined in the *Alabama Handbook*.

Clearing – Any activity that removes the vegetative surface cover.

Drainage Way – Any channel that conveys surface runoff throughout the site.

Erosion and Sediment Control Plan – Research, planning, processes, activities, and practices implemented for the prevention and/or minimization of pollutants in stormwater to the maximum extent practicable. This plan identifies site specific measures and sequencing to be used for the control of erosion and sediment on a development site before, during and after construction.

Erosion Control – Measures that prevent and/or minimize erosion (process by which the land surface is worn away).

Grading – Excavation or fill of material, including the resulting conditions thereof.

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

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

Qualified Credentialed Professional (QCP) – means a Professional Engineer, Certified Professional in Erosion and Sediment Control (CPESC), registered landscape architect, registered land surveyor, Professional Geologist, registered forester, Registered Environmental Manager, or a Certified Professional Soil Scientist. The QCP shall be able to document requirements regarding proven training, relevant experience, and continuing education. The QCP shall be in good standing with the authority granting the registration or designation.

Sediment Control – Measures that prevent and/or minimize eroded sediments from leaving the site.

Land Disturbance Permit – A permit issued by the City of Foley for the construction or alteration of ground as required by Ordinance No. 371-86.

Stabilization – The use of practices that prevent exposed soils from eroding.

Start of Construction – The first land disturbing activity associated with a development, including land preparation such as clearing, excavation, grading, and filling.

Watercourse – Any body of water, including, but not limited to creeks, rivers, streams, and bays.

Waterway – A channel that directs surface runoff to a watercourse, or to the public storm drain.

V. BMP Permits

A. Best Management Practices Permits shall be required for land disturbing activities that uncover more than 500 square feet of ground except land disturbances as noted in Section V. B.

B. BMP Permits shall not be 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, silviculture and agricultural operations conducted as a permitted main or accessory use.

VI. Erosion and Sediment Control Plan

A. Applicable for developments classified as multi family, subdivisions, commercial, and industrial construction.

B. Plan shall be designed by a qualified credential professional (QCP) such as a professional engineer.

C. Plan shall at a minimum include the following:

1. Map identifying topography, natural features such as watercourses, waterways, and wetlands, and proposed construction areas.
 2. Sequence of construction of the development, such as clearing and grading, drainage installation, utility installation, infrastructure and building construction, and landscaping.
 3. Erosion and sediment controls used throughout all phases of construction and details of permanent stabilization methods to be used at completion.
 4. Provisions for maintenance of erosion and sediment controls and periodic inspections for effectiveness of controls.
- D. Submittal, Review, and Approval Procedures:
1. Erosion and Sediment Control Plan shall be submitted in conjunction with the land disturbance permit.
 2. Review of each Erosion and Sediment Control Plan shall be within thirty (30) days of submittal to determine the plan's conformance with these provisions. Failure of the City to act on original or revised Erosion and Sediment Control Plan within thirty (30) days of receipt shall authorize the ability to proceed in accordance with the plans submitted.
 3. The City shall, in writing:
 - a. Approve the plan as it meets and/or exceeds the *Alabama Handbook*.
 - b. Approve the plan with reasonable, justifiable conditions to accomplish objectives of the provisions.
 - c. Disapprove the plan, indicating deficiencies and procedure for submitting a revised plan.
- E. Modifications to the Plan
1. Major amendments to the Erosion and Sediment Control Plan, such as the redesign of BMPs or removal of BMPs, shall be submitted to the City of Foley Community Development Department and shall be processed and approved, or disapproved, in the same manner as the original plan.
 2. Minor modifications to the Erosion and Sediment Control Plan, such as the use of additional temporary BMPs, may be addressed on site as needed to ensure compliance with the provisions.

VII. Erosion and Sediment Control Contract

- A. Applicable for single and double family residential construction.
- B. In lieu of an approved erosion and sediment control plan prepared by a QCP, single and double family residential construction may complete an erosion and sediment control contract.
- C. The contract shall include the BMPs to be used during the construction process and the final stabilization measures to be implemented.
- D. The landowner and/or contractor shall comply with all design requirements as described within this ordinance.

VIII. Design Requirement

Erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the most recent version of the *Alabama Handbook for Erosion Control, Sediment Control and Stormwater Management on Construction Sites and Urban Areas* and shall be adequate to prevent transportation of sediment from the site to the satisfaction of the City of Foley.

A. Clearing and Grading

1. Clearing and grading of natural resources, such as wetlands, waterways, and watercourses, shall not be permitted, except when in compliance with all other chapters of this Code and as permitted by the United States Army

Corps of Engineers and the Alabama Department of Environmental Management, if applicable.

2. Clearing techniques that retain natural vegetation and natural drainage patterns are encouraged.
3. Phasing shall be required on all sites disturbing greater than fifty (50) acres, with the size of each phase to be established at plan review and as approved by the City of Foley. The Foley Planning Commission may allow exceptions on a case by case basis due to a justifiable discrepancy.
4. Clearing, except, as necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed.
5. Cut and fill slopes shall be no greater than 2:1, except as approved by the City of Foley to meet other community or environmental objectives.

B. Erosion Control

1. Soils must be stabilized by temporary or permanent erosion control fourteen (14) days after clearing or inactivity in construction.
2. If vegetative erosion control methods, such as seeding, have not become established within four (4) weeks, the City of Foley may require that the site be reseeded, or that a non-vegetative option be employed.
3. On steep slopes or in drainage ways, special techniques that meet design criteria outlined in the *Alabama Handbook* shall be used to ensure stabilization.
4. Soil stockpiles must be stabilized at the end of each work week or if significant rainfall is anticipated.
5. Techniques shall be employed to prevent the blowing of dust or sediment from the site onto adjacent properties.
6. Techniques shall be employed to divert upland runoff past disturbed slopes.

C. Sediment Controls

1. Sediment controls shall be provided in the form of sediment basins or sediment traps and perimeter controls.
2. Where possible, sediment basins shall be designed in a manner that allows adaptation to provide long term stormwater management.
3. Adjacent properties shall be protected by the use of a vegetated buffer strip, in combination with perimeter controls.

D. Waterways and Watercourses

1. When a watercourse must be crossed regularly during construction, a temporary stream crossing shall be provided, and an approval obtained from the United States Army Corps of Engineers.
2. When in-channel work is conducted, the channel shall be stabilized after the work is completed.
3. All on-site stormwater conveyance channels shall be designed according to the criteria outlined in the *Alabama Handbook*.
4. Outlets of all pipes and paved channels shall have adequate stabilization to prevent erosion. Riprap may be required for stabilization if vegetative measures prove to be ineffective at controlling erosion in waterways or watercourses.

E. Construction Site Access

1. A stabilized construction access shall be required on all multi family, subdivision, commercial and industrial developments in order to ensure sediment is not tracked on to public streets from the construction site.
2. If heavy sediment tracking occurs on public streets, it may be required to remove accumulated sediments from streets and ditches.

F. Completion of Construction Activities

1. All open channels and ditches shall be permanently vegetated upon final inspection. Seed and mulch shall not be accepted. If sod is used on slopes, corners will need to be pinned per the *Alabama Handbook*.

2. Common areas, such as detention basins shall be permanently stabilized upon final inspection. Seed and mulch shall not be accepted.
3. All construction waste and debris, silt fences, hay bales, inlet protection, and other temporary BMPs shall be removed prior to final inspection except the temporary BMPs installed for the next phase of construction, such as home building.

IX. Inspections

- A. The City of Foley shall conduct random and scheduled inspections of the construction activity and shall determine compliance or non-compliance with the provisions of this Ordinance. The following inspections shall be performed at a minimum on multi family, subdivision, commercial and industrial developments:
 1. Immediately after erosion and sediment controls are in place.
 2. After clearing and grading has been completed.
 3. After drainage has been installed.
 4. After streets and curb and gutter have been completed.
 5. Before construction completion.
- B. The owner or contractor shall make regular inspections of all control measures throughout the construction process to ensure the overall effectiveness of the Erosion and Sediment Control Plan.

X. Enforcement

- A. It shall be unlawful to violate any provision(s) of this Ordinance
- B. The City of Foley may suspend or revoke the land disturbance permit for the following reasons:
 1. Violations of the terms of the permit or site development which may adversely affect the health, welfare, or safety of persons residing or working in the neighborhood.
 2. Site development that is detrimental to the public welfare or injurious to property or improvements in the neighborhood.
- C. Whenever the City of Foley determines that significant sedimentation is occurring as a result of a land disturbing activity, despite application and maintenance of protective practices, the person conducting the land disturbing activity or the person responsible for maintenance will be required to take additional protective action. Furthermore, if it is to be determined that sedimentation has occurred off site onto right-of-way, instream, or into stormwater drainage systems, the sediments shall be removed if over six (6) inches in depth or stabilized if less than six (6) inches in depth.
- D. Whenever the development is determined to be in noncompliance, the owner shall be notified of the violations and/or deficiencies. Upon notification, the owner shall have fourteen (14) days to bring the site into compliance. If the site fails to come into compliance, the owner may be found in violation of the Ordinance and may be guilty of a misdemeanor. Any person who violates this Ordinance shall, upon conviction thereof, be fined not less than \$100 or more than \$500, and in addition shall pay all costs and expenses involved in the case. Each day during which any violation of any of the provisions of this Ordinance is committed, continued, or permitted shall constitute a separate offense. Nothing herein contained shall prevent the City of Foley from taking such other lawful actions as are necessary to prevent or remedy any violation.

XI. Abrogation and Greater Restrictions

This ordinance is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

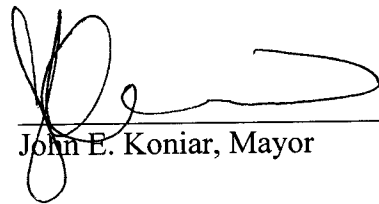
XII. Interference

No person shall hinder, prevent, delay or interfere with the City while engaged in carrying out the execution or enforcement of this ordinance; provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the municipality.

XIII. Severability

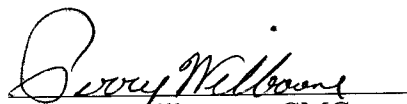
If any provision of this ordinance is declared to be invalid, such declaration shall not affect, impair or invalidate the remaining provisions of this ordinance.

PASSED, ADOPTED AND APPROVED this 20th day of August, 2007.



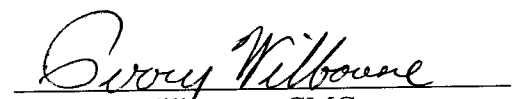
John E. Koniar, Mayor

ATTEST:



A. Perry Wilbourne, CMC
City Clerk/Administrator

"I certify that the foregoing Ordinance was published in the Foley Onlooker, a newspaper of general circulation in the City of Foley, Alabama in its issue of Saturday, Aug. 25, 2007."



A. Perry Wilbourne, CMC
City Clerk/Administrator

FOLEY, AL 36036-1720
P.O. DRAWER 1720
CITY OF FOLEY