

ORDINANCE NO. 2008 -10

BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF BAXTER, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE ESTABLISHING MINIMUM STANDARDS FOR DEVELOPMENT PROJECTS RELATING TO GROUND ALTERATION, GRADING AND EROSION CONTROL.

WHEREAS, during the construction process, drainage patterns are often altered and soil is highly vulnerable to erosion by wind and water; and

WHEREAS, improper grading can concentrate or redirect drainage flow negatively impacting neighborhoods and increasing soil erosion; and

WHEREAS, eroded soil endangers water resources by reducing water quality for human consumption and use and causes the siltation of aquatic habitat for fish and other desirable species; and

WHEREAS, eroded soil also necessitates repair and cleaning of sewers, ditches, streams and ponds; and

WHEREAS, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat; and

WHEREAS, due to the above, it is necessary to establish minimum standards and regulations relating to ground alteration, grading and erosion control for the purpose of safeguarding persons, protecting property and preventing damage to the environment within Baxter County; and

WHEREAS, said standards will 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, results in the movement of earth or impacts drainage flow on land in Baxter County.

NOW THEREFORE, BE IT ORDAINED BY THE QUORUM COURT OF BAXTER COUNTY, ARKANSAS, THAT THE FOLLOWING MINIMUM STANDARDS AND REGULATIONS FOR GROUND ALTERATION, GRADING AND EROSION CONTROL ARE HEREBY ADOPTED.

Section 1. Definitions

- 1) **Planning Board** – The Baxter County Planning Board or its designated representative.

- 2) **Clearing** – Any activity that removes the vegetative surface cover.
- 3) **Drainage Way** – Any channel that conveys surface runoff throughout the site.
- 4) **Erosion Control** – A measure that prevents erosion.
- 5) **Erosion & Sediment Control Plan** – A set of plans indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.
- 6) **Grading** – Excavation or fill of material, including the resulting conditions thereof.
- 7) **Perimeter Control** – A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.
- 8) **Phasing** – Clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.
- 9) **Sediment Control** – Measures that prevent eroded sediment from leaving the site.
- 10) **Site** – A parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.
- 11) **Site Development Permit** – A permit issued by the County for the construction or alteration of ground improvements and structures for the control of erosion, runoff and grading.
- 12) **Stabilization** – The use of practices that prevent exposed soil from eroding.
- 13) **Start of Construction** – 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, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.
- 14) **Watercourse** – Any body of water, including, lakes, rivers, streams, and bodies of water delineated by Baxter County.
- 15) **Waterway** – A channel that directs surface runoff to a watercourse or to the public storm drain.

Section 2. Permits

- A) No person shall conduct clearing or grading activity that would require the uncovering of one (1) acre or more without first obtaining a site development permit from Baxter County.

- B) 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) Nursery and agricultural operations
 - 3) Individual land owner for personal use, where the area to be disturbed is no closer than 300 feet to a navigable waterway.
- C) Each application for a site development permit shall bear the name(s) and address of the owner or developer of the site, and the name and contact information of the applicant's authorized representative.
- D) Each application for site development permit shall include an Erosion and Sediment Control Plan as required by the ADEQ.
- E) A site development permit is required in association with all required permits for new construction. No person shall conduct clearing or grading activity until both the required permits and associated site development permit have been issued by Baxter County. There shall be a \$25.00 Erosion and Sediment Control Plan review fee.

Section 3. Review and Approval

- A) The Planning Board will receive and review each application for a site development permit to determine its conformance with the provisions of this regulation. Within thirty (30) business days after receiving an application, the Planning Board shall in writing:
- 1) Approve the permit application;
 - 2) Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or
 - 3) Disapprove the permit application, indicating the reason(s) and procedure for submitting a revised application and/or submission.
- B) Failure of the Planning Board to act on an original or revised application within thirty (30) business days of receipt 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 Planning Board.

Section 4. Erosion and Sediment Control Plan

- A) The Erosion and Sediment Control Plan shall include the following:
- 1) A site map at a scale no smaller than 1" = 100' showing erosion and sediment control proposed for the site.
 - 2) A sequence of clearing and grading activities anticipated for construction of the development site. Sequencing shall include the anticipated dates for the start of construction, installation of temporary erosion and sediment control measures,

and establishment of permanent vegetation and permanent sediment control measures.

- 3) Erosion and sediment control measures necessary to meet the objectives of this ordinance that will remain installed and functioning throughout all phases of construction and after completion of development of the site until soil stabilization with permanent vegetation.
 - 4) Proposed seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, kind and quantity of mulching for both temporary erosion control and permanent vegetative stabilization.
 - 5) Provisions for maintenance of control facilities until the site soils are stabilized with permanent vegetation.
- B) Modifications to the plan shall be processed and approved or disapproved in the same Manner as Section 3 of this ordinance.

Section 5. Design Requirements

- A) Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the Best Management Practices (BMP) identified by the U.S. Environmental Protection Agency, and shall be adequate to prevent transportation of sediment from the site to the satisfaction of the Planning Board. Cut and fill slopes shall be no greater than 2:1, except as approved by the Planning Board to meet other community or environmental objectives.
- B) Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when in compliance with this ordinance, state and federal law. Site grading must meet the following requirements:
- 1) The site must drain away from all buildings and toward the county's road or a dedicated drainage ditch.
 - 2) The site should be graded to provide a minimum of 6" of fall in 10 feet away from building foundations.
 - 3) Drainage should be directed away from adjacent lots to the maximum extent possible.
- C) Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control measures have been installed in accordance with the requirements of the site development permit.
- D) Phasing shall be required on all sites disturbing greater than 30 acres, with the size of each phase to be established at plan review and as approved by the Planning Board.
- E) Erosion control requirements shall include the following:
- 1) Soil stabilization shall be completed within one week of clearing or inactivity in construction.
 - 2) If seeding or other vegetative erosion control method is used, it shall become established within two weeks or the Planning Board may require that the site

- be reseeded and/or mulched to stabilize the site.
- 3) Special techniques that meet the BMP on steep slopes or in drainage ways shall be used to ensure stabilization.
 - 4) Soil stockpiles must be stabilized when inactive for periods longer than 2 weeks.
 - 5) The entire site must be stabilized by seeding and mulching when site grading is complete. The Planning Board may require stabilization of any part of the site that will remain inactive for longer than 2 weeks or when an erosion problem is identified.
 - 6) Techniques that divert upland runoff past disturbed slopes shall be employed.
- F) Sediment control requirements shall include:
- 1) Settling basins, sediment traps, and perimeter controls.
 - 2) Settling basins that are designed in a manner that allows adaptation to provide long-term storm water management, if required by the Planning Board.
 - 3) Protection for adjacent properties by the use of a vegetated buffer strip in combination with perimeter controls.
- G) Waterway and watercourse protection requirements shall include:
- 1) A temporary stream crossing if a wet watercourse will be crossed regularly during construction.
 - 2) Stabilization of the watercourse channel after any in-channel work.
 - 3) All on-site storm water conveyance channels must be designed in accordance with the Arkansas Department of Environmental Quality (ADEQ) Minimum Drainage Standards.
 - 4) Stabilization adequate to prevent erosion located at the outlets of all pipes and paved channels.
- H) Construction site access requirements shall include:
- 1) A temporary access road provided at all sites.
 - 2) Other measures required by the Planning Board in order to ensure that sediment is not washed into storm drains and construction vehicles do not track sediment onto public roads.

Section 6. Inspection

- A) The County Judge or his agent shall have full access to the site for inspections to insure compliance with the approved Erosion and Sediment Control Plan.
- B) A copy of the site development permit and approved Erosion and Sediment Control Plan shall be maintained at the site throughout site development.
- C) The permit holder or his/her representative shall make regular inspections of all Control measures to insure compliance with the approved Erosion and Sediment Control Plan(s). 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 and inspection dates shall be documented in written form and available on site for review by the County Judge or his agent.

Section 7. Enforcement

A) Stop-Work Order; Revocation of Permit

In the event that any person holding a site development permit pursuant to this Ordinance violates the terms of the permit or this ordinance, the Planning Board may suspend or revoke the site development permit and any associated development permits; and the County Judge may issue a stop-work order subject to administrative appeal.

B) Violation and Penalties

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 violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this ordinance is committed continued, or permitted, shall constitute a separate offense. Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine of not more than \$250.00 for each offense. In addition to any other penalty authorized by this section, any person, partnership or corporation convicted of violating any of the provisions of this ordinance shall be required to bear the expense of such restoration.

Section 8. Severability

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

PASSED: 2-4-08

APPROVED: _____

ATTEST: _____
COUNTY CLERK

COUNTY JUDGE