

**ORDINANCE NO. 10-08-05-24**

**AN ORDINANCE OF THE CITY OF CORINTH PROVIDING REGULATIONS FOR LAND DISTURBING ACTIVITY; ESTABLISHING EROSION AND SEDIMENT CONTROL REQUIREMENTS; PROVIDING FOR DEFINITIONS; REQUIRING A PERMIT AND AN EROSION AND SEDIMENT CONTROL PLAN FOR LAND DISTURBING ACTIVITY; PROVIDING FOR DESIGN REQUIREMENTS; PROVIDING FOR INSPECTIONS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR A PENALTY OF \$500 FOR VIOLATIONS THEREOF; PROVIDING FOR PUBLICATION; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A CUMULATIVE CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Corinth, Texas, (the City) is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, the development of land causes large quantities of soil to be displaced and transported to downstream locations which can create significant soil erosion and sedimentation problems and may result in potentially destructive consequences; and

**WHEREAS**, a buildup of sediment degrades water quality, destroys valuable environmental resources and obstructs watercourses and storm drains which can cause flooding, thereby damaging public and private lands and property; and

**WHEREAS**, the City finds it necessary to adopt the regulations set forth below to govern erosion control to provide and maintain a safe, efficient and effective drainage system within the City of Corinth and to establish the various public and private responsibilities for the provision thereof and to reserve the natural beauty and aesthetics of the community; **NOW, THEREFORE,**

**BE IT ORDAINED BY THE CITY OF CORINTH, TEXAS:**

**SECTION 1 INTRODUCTION; PURPOSE.**

(A) The findings set forth in the preamble above are adopted in their entirety.

(B) 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. The purpose of this ordinance is to safeguard persons, protect property, and prevent damage to the environment. This ordinance also promotes 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.

## **SECTION 2 DEFINITIONS.**

***CITY MANAGER.*** The City Manager of the City of Corinth or the Manager's authorized representative.

***CLEARING.*** Any activity that removes the vegetative surface cover.

***DEVELOPMENT OR DEVELOPMENT ACTIVITY.*** Any manmade change to an improved or unimproved site, including, but not limited to, construction of or adding buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, grading or clearing.

***DIRECTOR OF PLANNING.*** The Director of Planning of the City of Corinth or the Director's authorized representative.

***DIRECTOR OF PUBLIC WORKS.*** The Director of Public Works of the City of Corinth or the Director's authorized representative.

***DRAINAGE WAY.*** Any channel that conveys surface runoff throughout the site.

***EROSION CONTROL.*** A measure that prevents erosion.

***EROSION AND 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 activity.

***GRADING.*** Any stripping, cutting, filling, stockpiling or combination thereof which modifies the existing land surface contour.

***LAND DISTURBING ACTIVITY.*** Any activity which may result in soil erosion from water or wind and the movement of sediments into public waters or onto public lands or adjacent property, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land. The term does not include home gardening activity and individual home landscaping repairs, fences, and other related activities which result in minor soil erosion.

***SEDIMENT CONTROL.*** Measures that prevent eroded sediment from leaving the site.

***SITE.*** A parcel of land or a contiguous combination thereof.

***SITE DEVELOPMENT PERMIT.*** A permit for the construction or alteration of ground improvements and structures for the control of erosion, runoff, and grading on a site.

***WATERCOURSE.*** Any body of water, including, but not limited to lakes, ponds, rivers, streams, and bodies of water.

**WATERWAY.** A channel that directs surface runoff to a watercourse or to the public storm drain.

### **SECTION 3 PERMIT REQUIRED.**

(A) A person commits an offense if the person performs or causes to be performed any land-disturbing activity without an approved site development permit from the City.

(B) It is an affirmative defense to prosecution of a violation of subsection (A) that the land-disturbing activity consists of one of the following activities:

(1) An emergency activity that is immediately necessary for the protection of life, property, or natural resources; or

(2) A nursery and/or agricultural operation existing as of the date of adoption of this ordinance and conducted as a permitted main or accessory use on the site; or

(3) Gardening or yard work for a residential dwelling disturbing less than 7,500 square feet of vegetation.

(C) Each application shall be submitted to the Planning Department on a form maintained by the City and shall contain the name(s) and address(es), email addresses and phone numbers of the owner, and if different, the 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.

(D) A person shall submit with his application an Erosion and Sediment Control Plan for the property for which the land disturbing activity is proposed. Additionally, if applicable, off-site borrow areas, spoil areas and construction staging areas shall be considered as part of the development site and shall be included in the Plan. The Erosion and Sediment Control Plan shall meet the requirements of Section 5 hereof.

(E) Each application shall include a signed statement by the applicant affirming that any land clearing, grading, construction, or development involving the movement of earth shall be conducted in accordance with the Erosion and Sediment Control Plan approved with the site development permit.

### **SECTION 4 REVIEW AND APPROVAL.**

(A) The City Planning Department staff or Public Works Department staff, as appropriate, will review each application for a site development permit to determine its conformance with the provisions of this ordinance.

(B) After receiving an application, the City shall review the application and:

(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 ordinance, 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.

## **SECTION 5 EROSION AND SEDIMENT CONTROL PLAN.**

(A) The Erosion and Sediment Control Plan shall include the following:

(1) A site plan or plot plan at a scale of no smaller than 1"=40'.

(2) A sequence of construction at the site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of erosion and sediment control measures, and establishment of permanent vegetation.

(3) A description of all erosion and sediment control measures to be installed and maintained throughout all phases of construction and throughout the duration of the development for which the Plan is submitted. The erosion and sediment control measures shall comply with the requirements of Section 6 (B) hereof.

(4) Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.

(B) The City may approve modifications to the approved plan using the procedure set forth in Section 4 hereof.

## **SECTION 6 DESIGN AND CONSTRUCTION REQUIREMENTS.**

(A) A person who engages in land disturbing activity shall comply with the Erosion Control and Sediment Plan approved by the City. The person who owns the land for which the Plan is submitted shall install or cause to be installed and maintained the erosion control devices in accordance with the Plan.

(B) A person who engages in land disturbing activity shall comply with the grading and erosion control practices, sediment control practices, and waterway crossings contained in the standards set forth in the 2004 edition of the North Central Texas Council of Governments Public Works Construction Standards, or if a later edition is in effect at the time the application for a site development permit is submitted, the later edition.

(C) The Erosion Control and Sediment Plan shall provide for those practices and erosion control devices that prevent runoff of soil from the site onto public streets, drainage easements,

drainage facilities, storm drains, alleys, sidewalks or other property.

(D) The owner of the site, and if applicable, the site developer, shall implement and maintain the erosion control measures shown on its approved Erosion Control and Sediment Plan in order to minimize the erosion and the transport of silt, earth, topsoil, etc., by water runoff or construction activities, beyond the limits of the site prior to beginning any land disturbing activity.

(E) A person commits an offense if the person performs any clearing, except that necessary to establish sediment control devices, before all sediment control devices described in the approved Erosion Control and Sediment Plan have been installed and have been stabilized.

## **SECTION 7 INSPECTION.**

(A) The City staff shall make regular inspections of the site for which the permit was granted to inspect all control measures outlined on 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 or maintenance to the control measures. The staff either shall approve that portion of the work completed or shall notify the permit holder wherein the work fails to comply with the approved Erosion and Sediment Control Plan.

(B) Plans for grading, stripping, excavating, and filling work bearing the stamp of approval of the Director of Planning or Director of Public Works shall be maintained at the site during the progress of the work.

(C) To obtain an inspection, the permit holder shall notify the City Permitting Department at least two working days before the following:

- (1) Installation of sediment and erosion measures.
- (2) Completion of site clearing.
- (3) Completion of final landscaping.

(D) The site development permit shall, whether or not expressly stated therein, authorize the Director of Planning or the Director of Public Works to enter the property of the applicant as deemed necessary to make regular inspections to ensure the effectiveness of the erosion control measures.

## **SECTION 8 STOP WORK ORDER; SUSPENSION; APPEAL.**

(A) In the event that a person holding a site development permit violates the terms of the site development permit or engages in development activity in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or the site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the Director of Planning may issue a stop work order and suspend the site development permit. Any suspension shall state the reasons for which the permit is

being suspended and shall advise the permit holder of his right to appeal.

(B) Any person whose site development permit has been suspended may, at any time, make written application for a re-inspection for the purpose of reinstating the permit. If upon re-inspection, the facility is found to be in compliance with the requirements of this Article, then the permit shall be reinstated.

(C) A permit holder may appeal the stop work order or suspension to the City Manager by submitting a request in writing to the City Secretary, who shall set a time for the appellant to have a hearing before the City Manager. The appeal shall state the grounds for the appeal and notice of the meeting shall be sent to the permit holder at the address shown on the application. At the hearing, the permit holder may present any evidence and the City Manager shall determine, based on a preponderance of the evidence, whether the suspension shall be sustained, modified or rescinded. The decision of the City Manager shall be final.

## **SECTION 9 PENALTY.**

(A) A person commits an offense if the person conducts a land disturbing activity and:

1. fails to install erosion control devices or to maintain erosion control devices throughout the duration of land disturbing activities, in compliance with the approved storm water pollution prevention plan for the location where the violation occurred;

2. fails to remove off-site sedimentation that is a direct result of land disturbing activities where such off-site sedimentation results from the failure to implement or maintain erosion control devices as specified in an approved storm water pollution prevention plan for the location where the violation occurred;

3. fails to repair damage to existing erosion control devices, including replacement of existing grass or sod; or

4. constructs, enlarges, alters, repairs, or maintains any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this ordinance.

(B) A 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. Conviction of any such violation shall be punished by a fine of not more than \$500 for each offense.

(C) Any person convicted of violating any of the provisions of this ordinance shall be required to bear the expense of restoration of any property damaged as a proximate result of the violation. The City shall send the person an invoice for the costs incurred to repair or remediate the property and the person shall pay the invoice within 30 days of receipt of the invoice.

(D) Nothing contained herein shall prevent the City of Corinth from taking such other lawful action as is necessary to prevent or remedy any violation, including seeking injunctive relief.

(E) No building permit or Certificate of Occupancy or other use permit may be issued for any construction, reconstruction or development upon any land where such construction, reconstruction or development is not in conformity with the requirements of this Ordinance. This shall include payment for the actual costs incurred by the City to restore or remediate any damages to property resulting from a violation of the Ordinance.

**SECTION 10 MISCELLANEOUS PROVISIONS.**

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

(B) This ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Corinth, Texas, as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed.

(C) The City Secretary of the City of Corinth is directed to publish the caption, penalty clause, publication clause and effective date of this Ordinance to the extent required by law.

(D) The erosion protection measures required by this Ordinance are considered reasonable for regulatory purposes and are based on scientific and engineering considerations. This Ordinance does not imply that erosion controls will survive inundation by runoff from storms greater than the design flood for erosion controls. This Ordinance shall not create liability on the part of the City of Corinth, any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

**SECTION 11 EFFECTIVE DATE.**

This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON THIS 5<sup>th</sup> DAY OF August, 2010.




Paul Ruggiere  
The Honorable Paul Ruggiere, Mayor

ATTEST:

Kimberly Pence  
Kimberly Pence, City Secretary

APPROVED AS TO FORM:

  
Debra A. Drayovitch, City Attorney